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Supreme Court, U.S.

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**THE SUPREME COURT OF THE UNITED STATES
1989 TERM**

**LAWRENCE L. ENGEL, PRO SE PETITIONER
v
CLARK COUNTY, NEVADA RESPONDENT**

**Petition on Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

**PETITION FOR
WRIT OF CERTIORARI**

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QUESTIONS PRESENTED ON APPEAL

Did the Clark County Commission, a legislature, cause a deprivation to be worked upon a specified individual, Engel, for misconduct on his part, without any trial before a tribunal competent to determine the question of guilt and thereby violate the Bill-Of-Attainder ban of the United States Constitution?

Engel alleged he was denied a judicial trial. Engel alleged he was deprived and punished without a judicial trial to determine the question of guilt when building permits were declared void by the Clark County Commission. The permits were fully approved, unrestricted, had been the subject of numerous county approved construction inspections, and Engel built the partially completed home he is now able to live in. Therefore Engel did not allege that he was denied building permits. Did the U.S. Court of Appeals error in its basic understanding when it stated, "Engel alleges that Clark County violated his constitutional rights by denying him a building permit."?

Did Clark County fraudulently attempt to conceal that Engel had been deprived and punished without a trial by the fabrication of the fictitious claim that at some point in time he had been *denied* building permits?

Has Engel exhausted all forms of appeal within Clark County and therefore, made his case "ripe" for federal court as was the issue raised de novo by the Court of Appeals?

When the Court of Appeals provided on its own grounds de novo to affirm the Nevada District Court's decision to dismiss, did it reject the lower court decision that Engel did not raise a federal question and that Engel must therefore proceed in Nevada state court? Or did it recognize Engel's right of choice or election to proceed in federal court?

Has Engel achieved the requirement of the appeals court ; "the high burden of proving that a final decision has been reached by the agency before it may seek compensatory or injunctive relief in federal court on federal constitutional grounds."?

Did the appeals court assume Engel to be guilty of

misconduct, thereby, altering the rules of evidence in a manner requiring him to establish his innocence? (This is the characteristic problem produced by the disguised and indirect form of the Bill-Of-Attainder in which penal sanctions appear to be civil in nature.)

Was justice achieved by the order of the U.S. District Court, Nevada?

Was justice achieved by the order of the U.S. Appeals Court for the ninth circuit?

Footnote: Engel's wife, Nobuko Engel, now a naturalized U.S. citizen is an interested part in this case. At the time the original case was filed she was an alien with a green card.

INTERESTED PARTY

Engel's wife Nobuko Engel, a naturalized citizen is an interested party in this case.

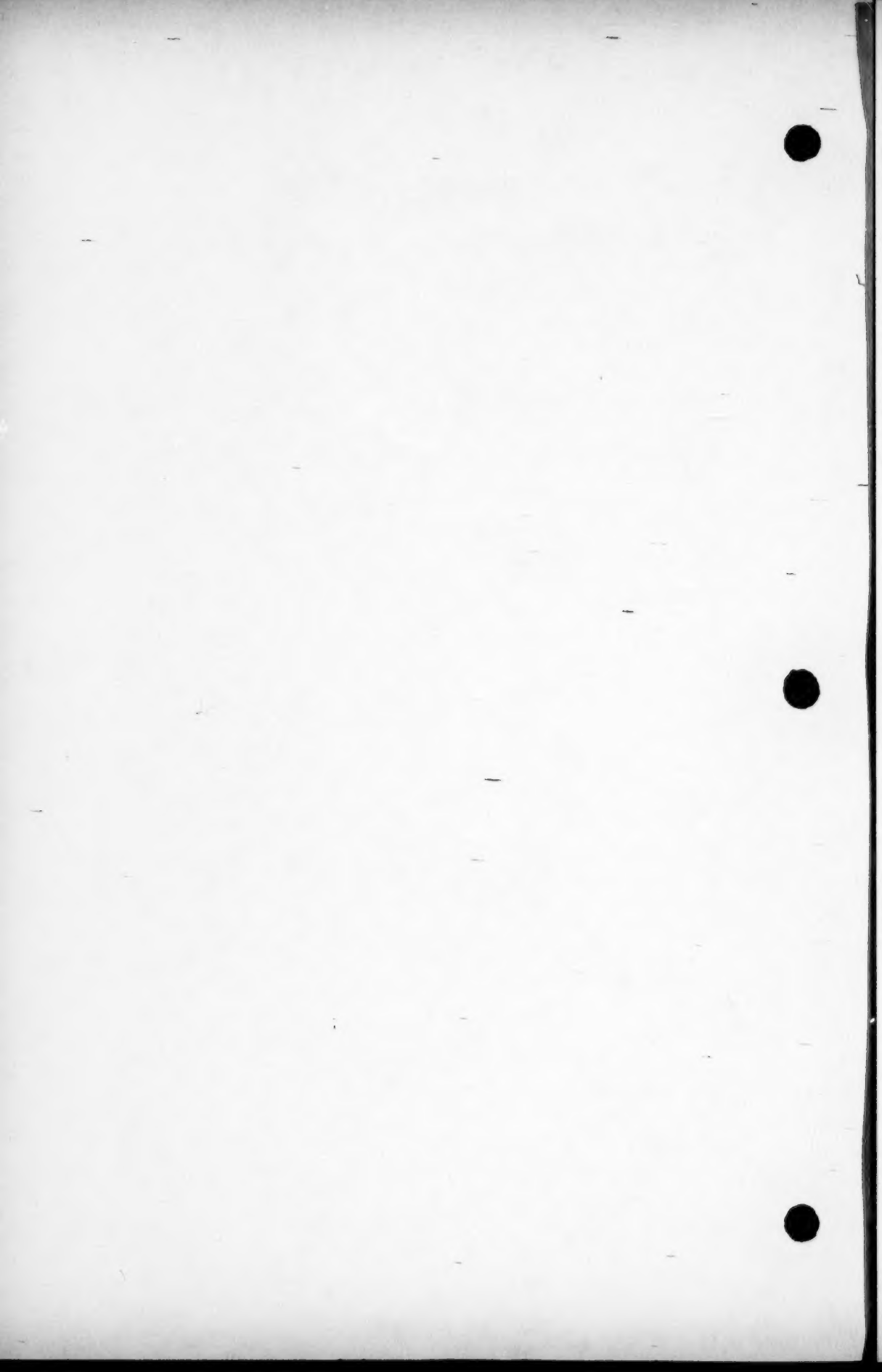
JURISDICTIONAL STATEMENT

Jurisdiction in the U.S. Supreme Court is invoked under 28 U.S.C. 1254(1). Court of Appeals, Certiorari

Jurisdiction in the Court of Appeals 9th cir. is invoked under U.S.C. 1291. Appeal from final judgement

Jurisdiction in U.S. District Court, Nevada is invoked under 42 U.S.C. 1983. Civil Rights

Jurisdiction in U.S District Court, Central District of California is invoked under 42 U.S.C. 1983 and 28 U.S.C



1331. Civil Rights and Diversity of Citizenship

Rule 17(c) Appeals Court decided a federal question in a way in conflict with applicable decisions of this Court. (Bill-Of-Attainder & Ex Post Facto Law)

SIGNIFICANT DATES

The decision to be reviewed was filed June 29, 1989 in the Court of Appeal 9th cir. case no. 87-2807 a Memorandum.

The Petition for Rehearing was denied by the order filed on July 21, 1989.

A notice of appeal was filed in the U.S. Court of Appeals 9th cir. on July 24, 1989.

NATURE OF THE PROCEEDING

This is a Civil Rights Complaint. Engel has alleged that Clark County Nevada violated his Civil Rights guaranteed by the United States Constitution, Article One, sec. 9, cl. 3 and sec. 10 Bill-Of-Attainder and Ex Post Facto Law Ban and the Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution. Engel was punished and deprived without a judicial trial to determine the question of guilt.

**CONSTITUTIONAL
PROVISIONS, AMENDMENTS & LAWS**

**UNITED STATES CONSTITUTION
ARTICLE ONE, SECTION 9, CLAUSE 3**

No Bill-Of-Attainder or Ex Post Facto Law shall be passed.

ARTICLE ONE, SECTION 10, CLAUSE 1

No state shall enter into any Treaty, Alliance, or Confederation; grant letters of Marque and Reprisal; Coin Money, emit Bill of Credit; make any Thing by gold or silver Coin as Tender in payment of Debts; pass any Bill-Of-Attainder, ex post facto Law, or Law impairing the obligation of Contracts, or grant any Title of Nobility.

FOURTH AMENDMENT

The right of the people to be secure in their persons, houses, papers and effect, against unreasonable searches and seizures, shall not be violated and no Warrants shall issue, but upon probable cause, supported by Oath of affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

FIFTH AMENDMENT

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia, which in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

SIXTH AMENDMENT

In all criminal prosecution, the accused shall enjoy the right to speedy and public trial, by an impartial jury of the

State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

EIGHTH AMENDMENT

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

CLARK COUNTY CODE 3.36(b)(1)

CLARK COUNTY COMMISSION ELECTION DISTRICT

To provide that the several commission districts shall represent substantially equal numbers of people as practicable, in compliance with the **constitutions of the United States** and the state of Nevada;

FEDERAL STATUTES WITH PRECEDENTS

Federal civil rights statute 18 USCS # 241 which makes conspiracy to interfere with citizen's free exercise or enjoyment of any right or privilege secured to him by Constitution or law of United States a criminal offense, includes rights or privileges protected by Fourteenth Amendment, and extends to conspiracies otherwise within scope of statute, participated in by officials alone or in collaboration with private persons. *United States v Price* (1966) 383 US 787, 16 L Ed 2d 267, 86 S Ct 1152

Civil Rights statute in 18 USC #241 which penalized conspiracy to interfere with citizen's right or enjoyment of any right or privilege secured to him by the Constitution or law of the United States, encompasses all rights and privileges secured to citizens by all of the Constitution and all laws of the United States. *United States v Johnson* (1968) 390 US 563, 20 L Ed 2d 132, 88 S Ct 1231.

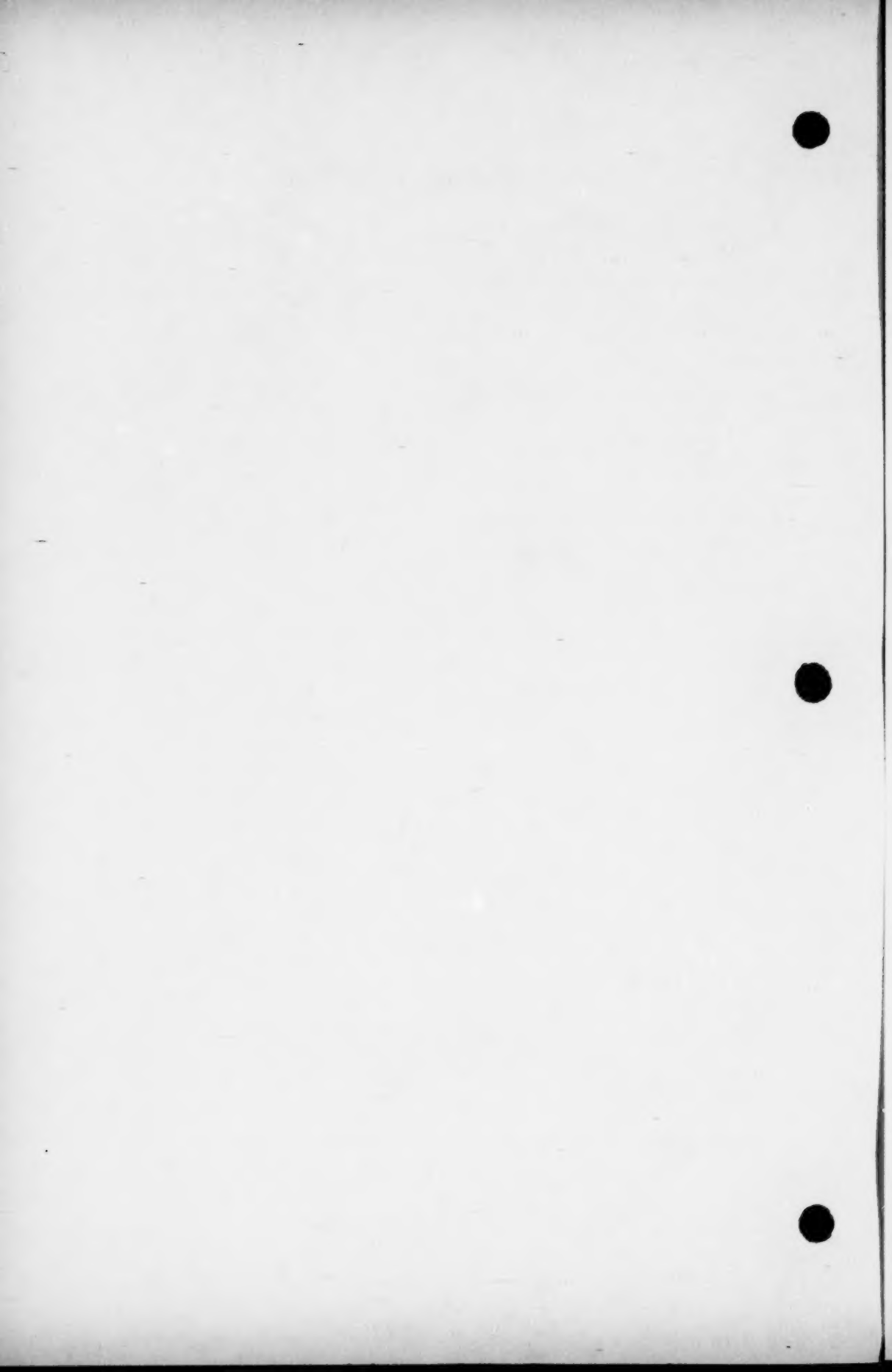
Interference with right to establish claim under Homestead Acts was right granted by law of United States, and hence conspiracy to prevent exercise of this right would be a violation of predecessor to 18 USCS # 241 United States v Waddel (1884) 112 US 76, 28 L Ed 673, 5 S CT 35.

Whoever, under color of any law, statute, ordinance, regulation or custom, willfully subjects an inhabitant of any State, Territory or District to the deprivation of any rights, privileges or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pain or penalties, on account of such inhabitant being alien, or by reason of his color, or race than are prescribed for the punishment of citizens, shall be fined not more than \$1000 or imprisoned not more than one year, or both; and if death results shall be subject to imprisonment for any term of years or life. June 25, 1945 ch 645 #1, 62; April 11, 1968 P.L. 90-48 Title #103(b), 82 State. 75.

Both 18 USCS #241, which makes conspiracy to interfere with citizen's free exercise or enjoyment of any right or privilege secured to him by constitution or laws of the United States federally offense and 18 USCS #242, which makes federal offense willfully to deprive any person under color of law of the same rights, include presumably, all Constitution and laws of the United States. United States v Price (1966) 383 US 787 16 L Ed 2d 267, 86 S Ct 1152.

[820] BILL of Attainder-1. Definition. A bill of attainder is a legislative act which inflicts punishment without a judicial trial. It may be directed against an individual by name or against a whole class; and may inflict punishment either absolutely or conditionally. Bills of attainder are ex post facto laws because passed after the commission of the offense which is to be punished.

[821] 2. Constitutionality. The constitution of the United States



prohibits the passage of bills of attainder either by congress or by the states. And the passage of such bills is also commonly forbidden by the state constitutions.

[822] 3. Law Imposing Civil Disabilities.- Laws imposing civil disabilities or forfeitures as punishment for past acts have been held to be bills of attainder, since they impose such disabilities without a judicial trial; but laws which do not proceed on the idea of punishment have been held not to be bills of attainder, although imposing disabilities on persons without judicial trial. A law which expatriates or banishes a citizen by reason of race or color is a bill of attainder.

[823] 4. Bills of Pains and Penalties. A bill of pains and penalties is a legislative act which without out a judicial trial, imposes a punishment less than death; and such bills are within the constitutional prohibitions against bills of attainder. But a statute authorizing the removal of a public officer by a majority vote of both houses of the legislature is not a bill of pains and penalties.

[824] Constitutional Provisions-1. In General. The constitution of the United States provides that "the Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States." The fourteenth amendment provides that "no State shall make or reinforce any law which shall abridge the privileges and immunities of the citizens of the United States." And the various state constitutions contain provisions forbidding the grant of special privileges or immunities.

12 CORPUS JURIS 820 , 821, 822, 823, 824 p1108

[852] b. Police Power- Personal rights must not be totally annihilated by the exercise of police power.

Personal rights, although subject to the police power, are not to be totally annihilated by the police power, or interfered with to a greater extent than reasonable necessary, taking into consideration the real object to

be accomplished. The police power must be at all times be exercised with scrupulous regard for private rights guaranteed by the constitution, and even then only in the public interest, and not for the benefit of a private company or individual. Thus, the police power may not be resorted to as a cloak for the invasion of personal rights guaranteed by the various constitutions, and may not be exercised capriciously or unreasonably. So, in order to be upheld a constitutional, a law which places some restriction upon freedom of action in the name of police power must bear some reasonable relation to the public good.

In this connection, a statute or ordinance which deprives one of his individual rights cannot be sustained under the police power when the regulation does not reasonably come within the scope of the police power.

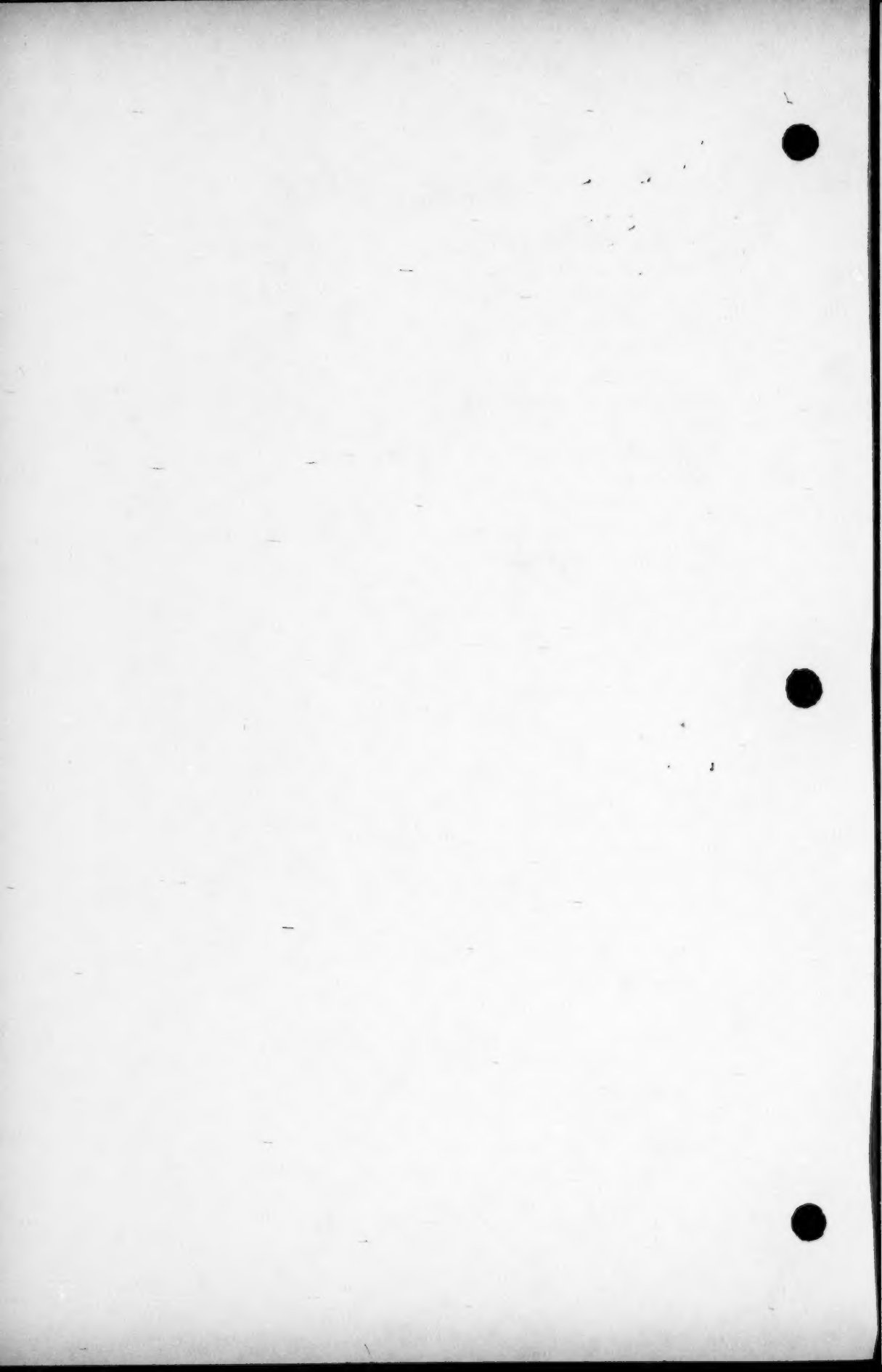
16 CORPUS JURIS SECUNDUM Constitutional Law 852.

**STATEMENT OF THE CASE
THE FACTS MATERIAL TO CONSIDERATION
OF THE QUESTIONS PRESENTED**

The plaintiff pro se, Lawrence Lee Engel, with no legal training or professional experience in the law and finding himself and his family subject to penal sanctions without judicial trial for acts that would normally be innocent, as well as subject to racial discrimination, economic discrimination and fundamental procedural irregularity, offer this prayer to the Supreme Court of the United States, that their rights as guaranteed by the Constitution and Amendments be secure.

It was at Runnymede five hundred and seventy years before the constitution was written when the principle was first established that no citizen could be punished or deprived without a judicial trial. Beyond the command of even a King is the power to deprive without first determining the guilt of the person in a court of law.

That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty, or property, but by the law of the land. NORTH CAROLINA'S DECLAR-

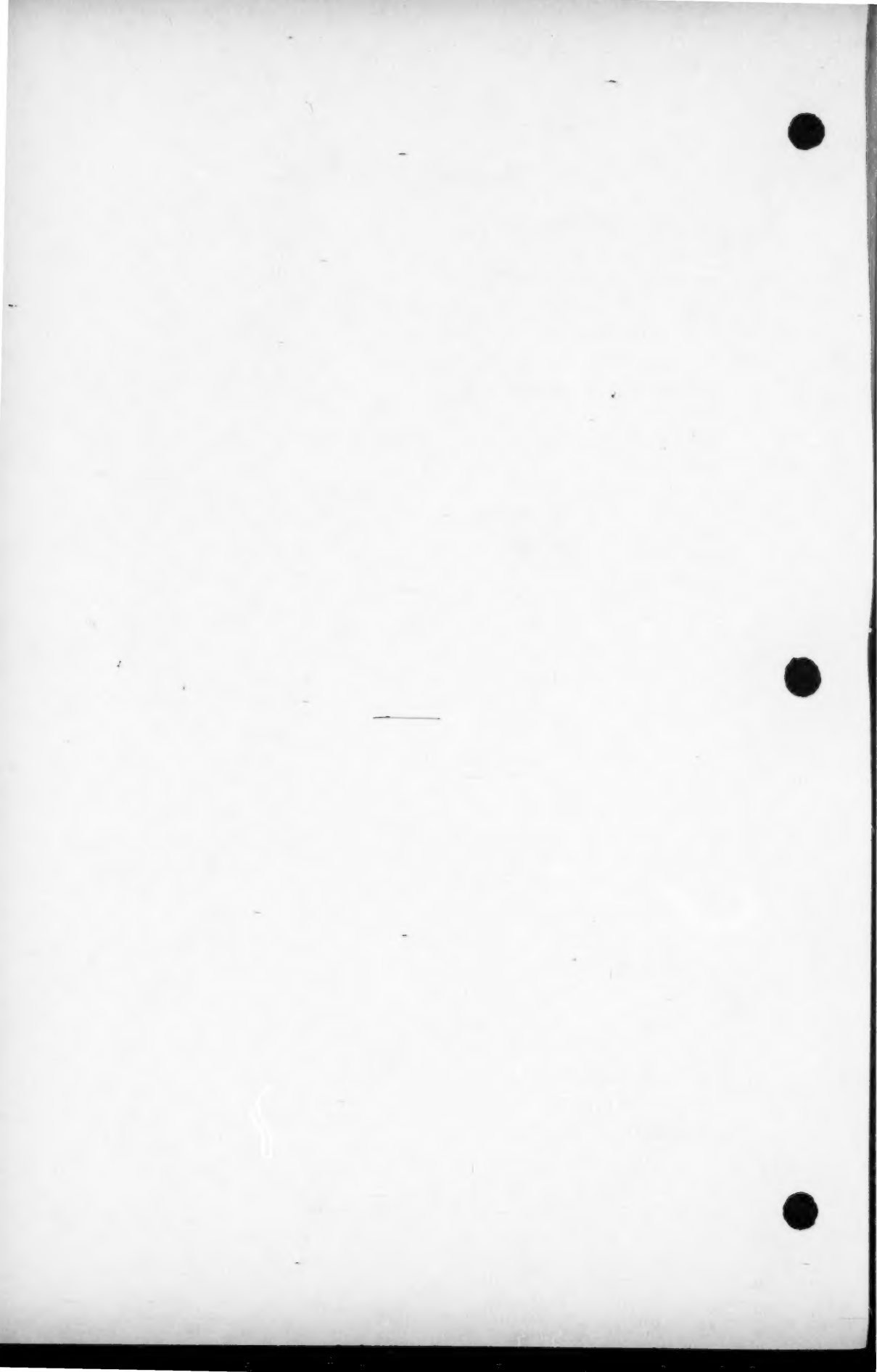


ATION OF RIGHTS FRAMED IN 1776.

Throughout the American Revolutionary period, the attainder device was extensively used by the state legislatures as a weapon against those still loyal to the mother country. "During the American Revolution," Justice Story tells us, "this power was used with a most unsparing hand; and it has been a matter of regret in succeeding times, however much it may have been applauded *fragante bello*." It was the attainder excess with which they were personally familiar, as much as anything else, that led George Washington, James Madison, Alexander Hamilton, Elbridge Gerry, Ben Franklin and the other framers of our constitution, unanimously and virtually without debate, to ensure that attainder should never recur. Encyl Am Const.

A bill of attainder is a legislative act which inflicts punishment without a judicial trial. If punishment be less than death, the act is termed a bill of pain and penalties. Within the meaning of the Constitution bills of attainder include bills of pains and penalties. *Cummings v Missouri* 71 US (4 How.) 277 (1867)

The Engel family felt the sudden shock and sting of having the second, valid approved building permit unlawfully declared void. Engel was punished by being required to



repeatedly pay heavy fines (approx. \$1000 & risk resubmit plans). The loss includes the bulky financial investment, personal labor in the construction of the home, and the his property which was rendered to have no practical use. The attainer has been described historically as a heavy weapon of war and Engel's racially mixed family became the victim of a form of government impelled economic warfare in a manner of speaking. By the means of fabricated and bogus variance requirements Clark County forced Engel and his alien wife (biracial marriage) to be humiliated and embarrassed at mandatory public meetings, conducted in an inflammatory atmosphere of condemnation and malignant political agitation, racial hatred and economic assault. And before the nightmare and torture of deprivation and punishment was inflicted upon the Engels there was no judicial trial to determine guilt. Never was there a citation or warning of violation of law against Engel.

According to a more recent case, the Cummings and Garland decisions, "stand for the proposition that legisla-

tive acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without judicial trial are bills of attainder prohibited by the constitution." Encycl. Am. Const. (see *Cummings v Missouri*, *Ex parte Garland*, *U.S. v Lovett*.)

DISCRIMINATORY SPECIAL CONDITIONS GOVERNMENT REASON

In a letter dated September 9, 1986 Clark County PAC Administrator Whittington cites "*special conditions*" as the basis for punishment and deprivation to the Engels and the county's departure from its common practice. When pressed for clarification by Engel, Whittington in a letter dated October 7, 1986 explains the "*special conditions*" referred to in his previous letter are established in minutes of the Clark County Planning Commission, an advisory body to the Clark County Commission, of April 22, 1986 and March 7, 1985. (These letters are submitted in evidence). Involved is a bogus variance requirement for a mobile home that never existed and an Extension of Time

for the connection of the non-existing mobile home to utilities. No such connections were ever made or inspected and this type of connection is not physically possible at Engel's. In reference to the bogus Extension of Time Variance, it is Nevada state law that governs Mobile Homes. The scope of Clark County's mandate is limited to the safety inspection of the connection of Mobile Homes to utilities. The fabricated variance requirements provided the county a means to condemn Engel without a judicial trial and to set the Bill-Of-Attainder into force.

The form of the legislative action is not relevant. The fact that it worked a punishment and deprivation against an individual Engel, without a judicial trial is what is prohibited by the U.S. Constitution. "It is when the legislature itself finds a specific person guilty and inflicts punishment, without any provision for judicial trial on the determination of guilt, the Bill-Of-Attainder clause is violated. Nor is it necessary for such violation to occur, for the offending law to contain an express declaration of guilt; it is enough that they legislate punishment, even

though it omits any express ground of condemnation." See
Encycl. Am. Const.

The question whether a deprivation worked by a statute is in the nature of a criminal penalty (or criminal building/zoning penalty)- or even, indeed, whether the legislature did have a punitive intent- is not really relevant to the determination of whether such statute is a Bill-Of-Attainder. It is not the nature of the deprivation, but the fact that a deprivation is being worked by the legislature upon a specified individual or group for misconduct on his or their part, without any trial or hearing before a tribunal competent to determine the question of guilt, that makes for a violation of the Bill-Of-Attainder ban. Encycl. Am. Const.

THE FALSE ACCUSATION THAT THE PERMIT EXPIRED BY LIMITATION

The letter from county PAC administrator, unlawfully declared Engel's building permit void and fraudulently claimed the permit had Expired by Limitation. The "*special conditions*" cited as the basis for action are ungrounded

and based upon the unproven accusation that Engel's construction did not proceed on a timely basis toward completion. Note the county indicates it has commenced enforcement. Note that Engel has never been cited for any code violation or warned, therefore, never convicted of misconduct in a judicial trial. Since he was never warned the government action was a horrible, unanticipated shock. There was no form of appeal provided.

This official referenced the Uniform Building Code to which the county subscribes. It reads:

Sec. 302.(d) EXPIRATION. Every permit issued by the Building Official under the provision of this Code shall expire by limitation and become null and void, if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of 180 days . . . (180 days in Clark County)

Had the county written a citation, gone to court and proved that Engel had suspended or abandoned his project for 180 days, Engel would not have had grounds on which to file his action in federal court. Since the county had conducted three(3) construction inspections , foundation, plumbing and sanitation on Engel's property during the

period in question it is not likely there would be proof of suspension or abandonment. Engel also completed very extensive fill and grading plus other work during the period. The charge is purely fabricated, fictitious and fraudulent. Government officials assumed Engel guilty without proof or trial.

**PLEDGE OR OATH REQUIRED
SANCTIONS PUT IN PLACE FOR AN
ACT THAT WAS NOT UNLAWFUL**

The government explained the discriminatory "*special conditions*" in a second letter that referenced Planning Commission minutes indicating government officials assumed Engel was guilty of lack of progress and guilty of not meeting something they called "Zoning Time Standards". (no such thing exists in the code.) During these circus style, public, planning meetings and the one on May 21, 1986 before the Clark County Commission when the final legislative action was taken, the Commissioners mistakenly believed that Engel had sworn a false-oath to complete his home by a certain date. Furious and dark passions in the minds of government officials provoked by

the illusionary false-oath brought brutal penal sanctions against Engel without trial in a forum competent to determine his guilt. Engel was punished and deprived of his constitutional rights and made to suffer confiscation of his property for an act (not completing construction by the date the commission specified) that was innocent by its nature and was not a violation of law when it was committed. This was accomplished by a legislative body instead of a judicial proceeding.

The constitutional prohibition (attainder) was intended to protect every man's rights against the kind of legislative action which seeks either to inflict penalty without a trial or to inflict a new penalty for an old matter. What avail will be the prohibition, if it can be evaded by changing the form? (See *Cummings v Missouri* page 288)

The Clark County Commission meeting of May 21, 1986 was for a bogus Extension of Time Variance. Engel had been coerced into applying for it by threat of enforcement . Utility connections were never made or in-

spected and are not physically possible. Engel did not need a variance.

Engel recalls County Commissioners and Planning Commissioners discussing lack of progress among themselves and assuming his guilt, but denies any understanding of or agreeing to or willingly agreeing to "*special conditions*".

EVIDENCE THAT ENGEL DID NOT DELAY CONSTRUCTION

While at this point the government had assumed Engel was guilty of lack of progress, there is strong evidence to the contrary.

(A) During the 180 day period that Engel was accused of being guilty of abandoning or suspending construction Engel passed three county inspections: foundation, plumbing and sanitation.

THE COUNTY HEALTH DEPT. APPROVED THE WATER CONSERVATION SYSTEM AFTER MONTHS OF DELAY

(B) The Clark County Health Department and Engel had agreed upon a Water Conservation System that potenti-

ally would protect ground water throughout the western USA from contamination by residential septic tanks.

After months of this matter pending in county paper work Engel attempted to withdraw his interest, but County Health would not accept withdrawal. On about August 15, 1986 the Health Dept. top administrator with a medical doctor, engineer and construction inspector in tow came to Engel's property and on the spot approved the system. Engel immediately finished the plumbing plan, constructed as required and passed the inspection.

**COMMISSION IMPOSED OATH REQUIRED
ENGEL TO VIOLATE THE LAW**

(C) After passing the above mentioned sanitation inspection for the first time Engel's building permits were free of all restrictions and the Foundation Only Requirement the county had imposed. Five days later on September 9, 1986 the permits were unlawfully declared void. Note that had Engel completed his home by March 1986 as the commission had required by pledge or oath Engel would have had to violate the law or code. The code required that

he wait for approval of the Health Dept (granted Aug 86) before finishing the plumbing plan and properly placing the plumbing before pouring concrete slabs. Did the county wish to speed up construction or delay and make it impossible?

(D) Note the Engel was given a total of five days in which to build his home. Five days after the sanitation inspection removing restrictions the permits were declared void.

(E) The fact that Engel could live in a portion of the house (basement) defies the assumption that he was guilty of lack of progress. It is amazing and surprising to some that with "foundation only permits" he could build a place to live.

(F) County actions had a negative affect on the financing of the home causing problems time related.

(G) The type of construction, methods and materials, soil conditions, damage and delay due to disaster area flooding conditions and a wide variety of other factors were also ignored when it was assumed by the government that Engel was guilty of delay. For example, basements are

very rare in the area because of adverse soil conditions.

A nine ton bulldozer was necessary for this work.

Under the form of creating a qualification or attaching a condition, the States cannot in effect inflict a punishment for a past act which was not punishable at the time it was committed. *Cummings v Missouri*

Deprivation or suspension of any Civil Right for past conduct is punishment for such conduct. *Cummings v Missouri*

These bills, though generally directed against individuals by name, may be directed against a whole class, and they may inflict punishment absolutely, or may inflict it conditionally. *Cummings v Missouri*

The prohibition of the Constitution was intended to secure the rights of the citizen against deprivation for past conduct by legislative enactment, under any form, however disguised. *Cummings v Missouri* 71 US (How) 277

A statute which inflicts its deprivation upon named or described persons or groups constitutes a bill of attainder whether its aim is retributive, punishing past acts, or preventive, discouraging future conduct. (*U.S. v Brown*)

The Bill-Of-Attainder Clause was intended to implement the separation of powers. . . by guarding against the legislative exercise of judicial power. (*U.S. v Brown*)

The Bill-Of-Attainder Clause is to be liberally construed in the light of its purpose to prevent legislative punishment of designated persons or groups. *U.S. v Brown* 381 US 437 (1965)

ENGEL'S ORIGINAL COMPLAINT
DEPRIVATION OF CIVIL RIGHTS

This is only a portion of the original complaint

The plaintiff alleges that on May 21, 1986 and continuing in force the defendant in an unreasonable and unlawful act voted a Bill-Of-Attainder creating "special conditions"; such conduct was done by the defendant under color of law of the County of Clark, State of Nevada in their capacity as Board of Commissioners, County of Clark, State of Nevada and that such conduct deprived the plaintiff of his Civil Rights as guaranteed by the Constitution, Fifth Amendment, Taking Clause, Fourteenth Amendment, Equal Protection, Due Process, General Welfare Standard and Bill-Of-Attainder, that as a proximate result plaintiff and members of his family were deprived of the rights to and the use of his private property, delay of construction, loss of investment, physical and financial hardship, extreme trepidation, anxiety and apprehension of punishment and physical harm, embarrassment, public vilification, malediction and humiliation and that such conduct was so unreasonable, irresponsible, wanton, illdisposed and groundless as to entitle plaintiff to punitive, as well as compensatory damages.

The Plaintiff claims that on April 22, 1986 and continuing in force the defendant conducted a Planning Commission meeting in an arbitrary and capricious and unlawful manner in which public officials exhibited a predisposition in the matter, did not understand or obey the rules of evidence, made reference to falsified documents and spurious complaints and made demands not supported by facts or expert knowledge, such that the plaintiff's Civil Rights were violated, including but not limited to not being permitted to know the charges or complaints made against him and was not permitted to examine his accusers under oath; and that such conduct was done by the defendant under color of law. . . (same as above)

The plaintiff claims that on August 28, 1986 and continuing in force the defendant unlawfully declared Building Permit No. 1-45-004725 void and dispatched enforcement officers to coerce plaintiff to vacate his private property at 3388 West Cougar Avenue, Las Vegas, Nevada to remove his private possessions from his property and not to enter or use his underground structure on the property; and that such conduct . . . (same as above)

FRAUD BY THE DEFENSE

In the June 29, 1989 decision the appeals court states, "Engel alleges that Clark County violated his constitutional rights by denying him a building permit." The use of the word denying by the appeals court is an error in fact. Engel was never denied a building permit. Engel did not allege he was denied a permit. The Appeals Court's error implies that the disguised and indirect attainder form used by the county conceals the fact that they used a penal sanction. Step one, that Engel was first granted permits and step two, he was punished when they were declared void. There are two separate and distinct procedures. The first was correct. The second unlawful

Engel alleged he was denied a trial to determine the question of guilt not just building permits. He was also denied the presumption of his innocence until proven guilty in a court of law.

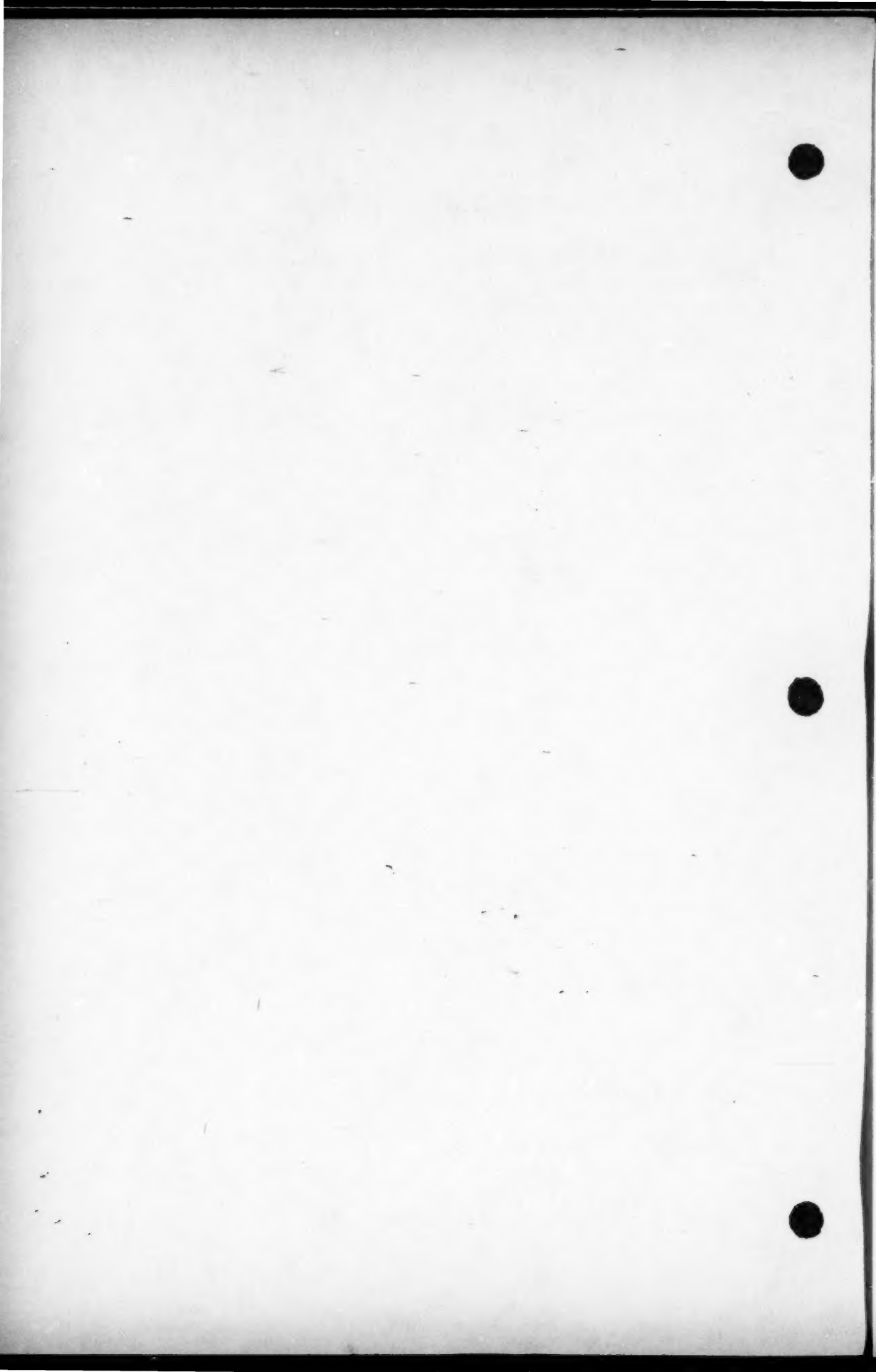
Building permit numbers 23-005523 and 45-004725 were both properly approved by authorized persons in

accordance with Clark County Code Sec. 22.02.147. The county conducted inspections based upon them. A portion of the home was completed

To date it has not been proven that Engel suspended or abandoned his project as county officials falsely alleged. Therefore, the permits could not Expire by Limitation. (See Uniform Building Code 302(D).

Furthermore, the temporary restrictions of "foundation only" and "no final without approval from Health Dept." which had caused a delay in the completion of the home were overcome by Engel. Five days later the unrestricted permit was unlawfully declared void.

Since Clark County agreed to grant Engel building permits because he had met all the conditions required by law and evidence indicates they could not have Expired by Limitation, how does the county explain that Engel came to be deprived of them? They lie! They fabricated the totally fictitious and fraudulent story that they had at some point in time "denied" them, that Engel never had them. By this method they conceal and confuse the issue that Engel was



punished and deprived by a legislative act. They also concealed that the act was based upon discriminatory "*special conditions*". Permits cannot be both *denied* and *approved* that is ridiculous. If the court is assumed to be correct and Engel did allege he was denied building permits then one must consider that Engel is required by the disguised penal form of attainder to testify against himself as well as prove himself innocent.

DEFINITION: What is punishment? The infliction of pain or privation. To inflict the penalty of death, is to inflict pain and deprive of life. To inflict the penalty of imprisonment, is to deprive of liberty. To impose a fine, is to deprive of property. To deprive of any natural right, is also to punish. And so it is punishment to deprive of privilege. See page 286 *Cummings v Missouri* 71 US (4 How.) 277.

The county used fraud to market its case to anyone willing to presume Engel guilty of misconduct, rather than assume him innocent until proven guilty. This way they would conceal punishment without judicial trial.

Rule 60(b), as amended, provides for relief, on motion because of fraud, misrepresentation or other misconduct of an adverse party. Judgments obtained through fraud, misrepresentation or other misconduct should be vacated by use of Rule 60(b)(3), which is remedial and should be liberally construed. *Atchison, T. S. F. Co v Barrett*, 246 F2d 846, 24 Fr Serv 60b.33 *Fackelman v Bell*, 564 F2d 734.

Fraud upon a court, or fraud which induces an adversary to withdraw his defense or prevents him from presenting an available defense, is type which equity will relieve. *Groves v Witherspoon*, 379 F Supp 52.

Rule 60(b) empowers court to vacate any fraudulent judgement and prescribed remedy for relief is by way of motion or independent action. *Cuthill v Ortman-Miller Mach. Co.* 216 F2d 336.

The record on file in the Appeals Court indicates the following fraudulent statements by the defense:

1. Engel had a Mobile Home on his property.
2. Engel had utility connections on his property.
3. The county had made safety inspections for utility connections at Engel's.
4. Engel was denied building permits.
5. Engel was denied a variance.
6. Engel made no progress on construction.
7. Engel could resolve problem by paying penalty.
8. Understated penalty amount by 100%.
9. Falsely represented expiration of statute of limitations.

10. Made a false and distorted representation of plaintiff's complaint.

11. Falsely stated Engel desired to engage the county in a dispute.

On the later point Engel states, we must remember we have duties and obligations to perform corresponding to the blessings which we enjoy. I feel a personal responsibility to the full extent of my limited power and influence for the preservation of the principles of liberty.

COURT HISTORY

Engel, a California resident, filed his Civil Rights complaint under 42 U.S.C. 1983 and 28 U.S.C. 1332 diversity of citizenship in the U.S.D.C. Central District of California because a variety of circumstances existed which would make a fair trial implausible in Nevada. Engel and his mother (both living in California) homesteaded the Nevada property under the U.S. Homestead Act in the 1950's.

On March 26, 1987 acting under the influence of fraud the Central District of California transferred the action to Nevada. The order failed to observed that in Nevada Engel was subject to a Bill-Of-Attainder, by the famous Clark County Commission.

Where plaintiff's complaint alleges cause of action against state officials based upon unlawful (unconstitutional) action, fiction of official residence created for benefit of public may be destroyed by simple allegation that defendant is unlawfully acting against public and government officials allegedly acting outside the scope of his public capacity should not enjoy benefit of defending on his own turf those unlawful wrongs which are committed against public he is to serve. *Sheffield v Texas* 1976 D.C. Tex 411 F Supp. 709, 28 USC 1391 Civil Rights.

Engel appealed he order transferring to Las Vegas



to the Ninth Circuit. CA No. 87-6116. Wallace, Anderson and Thompson, judges ruled:

Appellee's motion to dismiss the appeal for lack of jurisdiction is granted. The district court order transferring venue was not a final appealable order. See *Varsic v U.S.D.C.* 607 F2d 245, 251. The appeal also cannot be construed as a petition for writ of mandamus because appellant has not demonstrated extraordinary circumstances justifying mandamus relief. *U.S. v Gregor*, 657, F2d 1109.

The Ninth Circuit's decision mirrors the defense's arguments that Engel is required to file a writ of mandamus. Requiring Engel to file an "abolished" document is not fair or a just solution.

Writs of scire facias and mandamus are abolished. Relief heretofore available by mandamus or scire facias may be obtained by appropriate action or motion under the practice described in these rules. Rule 81(b) Civil Procedure

Under Rule 81(b), relief, mandamus in character, is not abolished; Rule merely provides for same remedy under different procedure.

On September 11, 1987, U.S.D.C. Nevada ordered the action to be dismissed. No CV-87-0419-HDM.

Engel alleges that the members of the U.S.D.C. Nevada have personal knowledge of the members of the publicly elected Clark County Commission and other local Clark County authorities or via television and mass media

have a particular kind of knowledge of these persons. This knowledge makes it impossible for the court to render an impartial decision on the Bill-Of-Attainder violation against the powerful, political body in the complaint.

B. The Nevada court arrived at its decision without the benefit of a hearing.

C. The Nevada court did not see any evidence.

D. The Nevada court did not hear oral argument.

E. It relied upon fraudulent information provided under the authority of Clark County, Nevada.

F. It ignored and did not demonstrate competence in the central issue of the case. Art. 1, Sec. 9 & 10 Bill-Of-Attainder.

G. The Nevada court assumed Engel guilty of misconduct and required that he prove his innocence.

Engel appealed to the U.S. Court of Appeals 9th cir. case No. 87-2807. It was decided by the Ninth Circuit June 27, 1989. They did not permit a prebriefing conference which would have benefited Engel by providing



information that would have clarified the issues raised later. They did not permit oral argument. They assumed Engel guilty of misconduct and required that he prove his innocence. This may be proper in Civil Cases, however, with the Bill-Of-Attainder allegation the burden of proof falls upon the government. (See Cummings v Missouri)

POINTS ON JURISDICTION

A. The Court of Appeals 9th. Cir. rejected the lower court's grounds for dismissal, raised an issue de novo while affirming the lower court's decision to dismiss. It was clearly indicated that the case is not finished. Appeals Court rejected the lower's issue that Engel had not raised a federal question and that Engel must proceed in state court. The Appeals court thereby has confirmed Engel's right of election or choice and narrowed the issue.

Since the right to sue in federal court is a substantial one, of which a litigant should not be deprived, a federal court which has jurisdiction ordinarily should not refuse to exercise it. This is true regardless of the motives behind the litigation, and even though state courts may be open to the litigants and it appears preferable that the case should be brought to them. *Southern Pacific Co. v Corbett*, 20 F Supp 940 *Commonwealth Trust Co. of Pittsburgh v Bradford* 2297 US 613, 80 L Ed 920, 56 S Ct 600 *Mary Hosiery Mills, Inc v U.S.D.C. Montana*, 644 F2d 450. *Brunrite Coal Briquette Co. v Riggs*, 274 US 208, 71 L Ed 1002, 47 S Ct 578.

The right of recourse to either a state or federal court, where it exists, is sometimes referred to a choice or election of which the plaintiff may not be deprived. *Missouri ex rel. St Louis, B & M R Co. v Taylor*, 266 US 200, 69 L Ed 247, 45 S Ct 47. *General Outdoor Advertising Co. v Williams*, 9 F2d 165.

The Appeals Court's grounds de novo indicates Engel did not attempt to show proof that he had taken all reason-

able measures to resolve the matter before proceeding to federal court. The following address that issue.

B. The law establishing the Clark County Commission reads:

CLARK COUNTY CODE 3.36 (b)(1)

To provide that the several commission districts shall represent substantially equal numbers of people as practicable, in compliance with the constitutions of the United States and the state of Nevada. (See appendix)

In creating the Commission in this manner the framers intended that its decisions would be reviewed by both the U.S. federal Courts and Nevada's. This Commission is an all powerful , elected authority and 3.36 (b)(1) is the only stated limitation on the Commission's power. It is the highest and final authority in Clark County, Nevada. Whereas there was no other check or balance or appeal provided by law in creating the commission , Engel must be permitted to make his election or choice, U.S. or Nevada Court.

C. Commonly within the context of precedent cases the word "state" includes all local government within the state's boundary. For example, if states are forbidden



to coin money then a city or county is likewise forbidden. From this perspective, Engel's election or choice is federal or {state-county}. Engel has the right to choose. The county has ignored, obstructed and stonewalled three letters, prayers of relief or appeal from Engel, waiting until after the expiration of the statute of limitations to respond, for example.

D. The Appeals Court's ground's de novo for affirming against Engel was that he " has not met the burden of proof that the Planning Commission reached a Final Decision" and that Engel's case is not "ripe" for federal review. The Appeals Court, however, is in conflict with decisions in the Supreme Court. *Cummings v Missouri*, *Ex parte Garland*, *U.S. v Lovett*, *Kennedy v Mendoza-Martinez*, *U.S. v Brown*, *Imma & Nat Ser. v Chadha*. In these cases Engel would be assumed to be innocent of misconduct until proven guilty in a court of law. The Appeals Court's in its grounds de novo statement overlooked the indirect method by which Clark County had

achieved penal sanctions and to Engel's extreme disadvantage "altered the rules of evidence with respect to proof of the acts specified - thus in assuming the guilt instead of the innocence of the parties; in requiring them to establish their innocence, instead of requiring the governments to prove them guilty. . . ." Cummings v Missouri pg 278.

The Appeals Court requires Engel to prove a planning commission made a final decision. If Engel is successful in this he will be given the opportunity to prove himself innocent of misconduct, maybe! The government is supposed to have the burden of proof and conviction before they punish and deprive.

Another , conflict with the Supreme Court decision also arises. Engel is required to provide facts and information to show the "final decision" was reached and how accomplished. Is it possible to do so without testifying against himself? Will no fact he has provided be used by the government against him.? Who will guarantee? Already the Appeals Court has assumed Engel alleged he was *denied* (not punished and deprived as Engel actually alleged) a

building permit. Was Engel required in the simple act of filing a civil action for defense against penal sanctions to testify against himself? This problem is characteristic of the Bill-Of-Attainder precedent cases.. see Cummings v Missouri page 278.

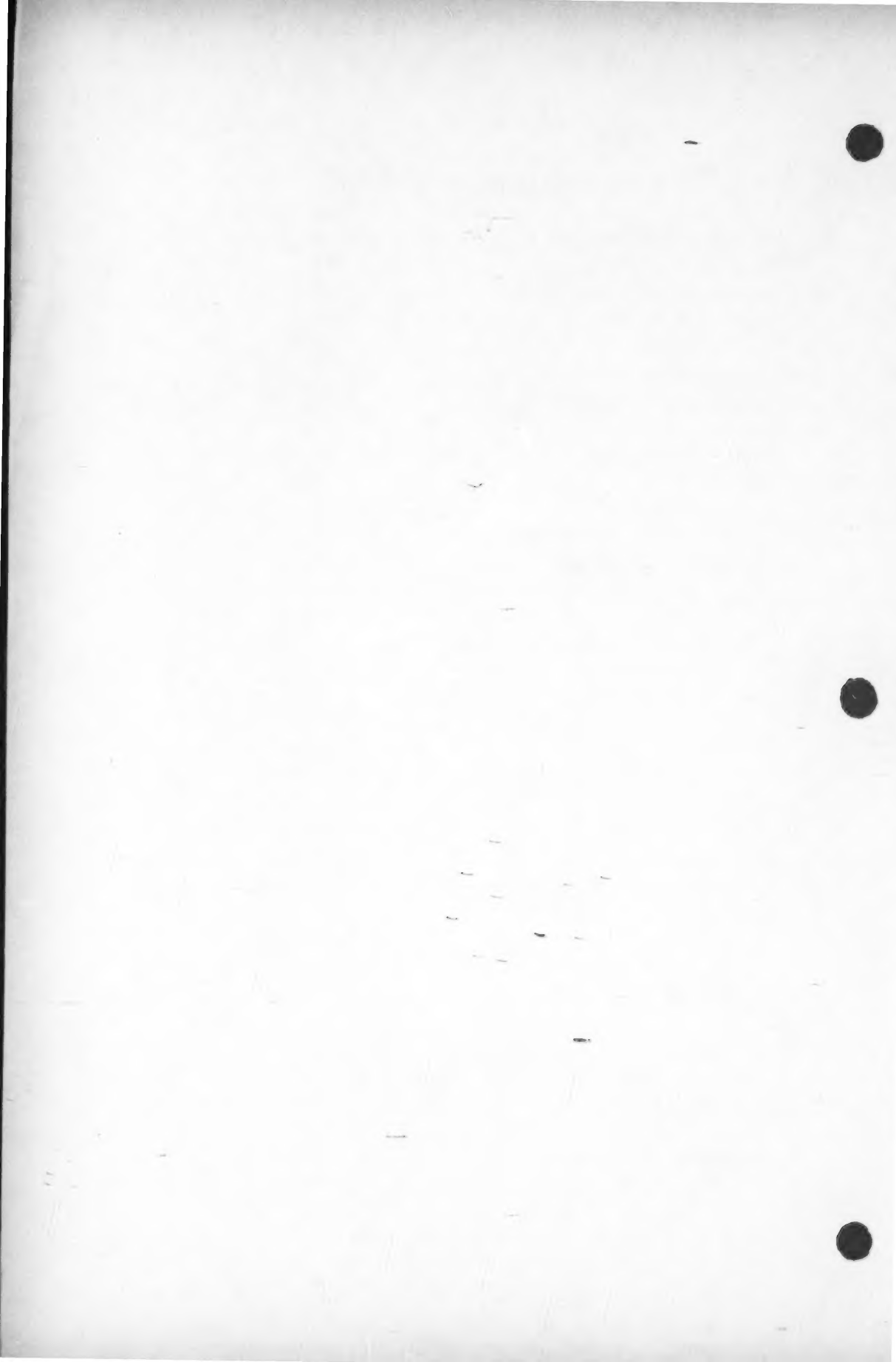
There is no practical difference between assuming the guilt and declaring it. The deprivation is effected with equal certainty in the one case as in the other. The legal result is the same, on the principle that what cannot be done directly cannot be done indirectly. Cummings v Missouri 71 US (4 How.) 277

The prohibition cannot be evaded by Clark County by giving a civil form to that which is in substance criminal.

"Ripe", "not Final Decision", the appeals court argues, however, the form is not relevant.

Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution. U.S. v Lovett 328 U.S. 303 (1946) Cummings v Missouri, 4 Wall 277, Ex part Garland, 4 Wall 333.

E. If the county had followed lawful methods it could have avoided this law suit. The Clark County Commission made an ungrounded assumption that Engel was guilty of swearing a false-oath or pledge and the Commis-



sioner's hellfire followed in the form of brutal penal sanctions. They assumed him guilty of delaying the construction of his home without valid proof or trial.

Had Engel been guilty or suspected of wrong doing in regards to the construction of his home the county could have avoided this law suit by following lawful procedures available to them in reference to building permits, such as the following:

22.02.140 VIOLATIONS It is unlawful for any person, firm, or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done in violation of this code and/or the technical codes.

Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and everyday or portion thereof during which any violation of any of the provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than one thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment. Whenever in this chapter any act is prohibited or made or declared to be unlawful or an offense or a misdemeanor, the doing of any such required act shall constitute a violation of this chapter. Any day of any violation of this chapter shall constitute a separate offense. (Ord. 955 11(part), 1985) C.C. Code

ENFORCEMENT 20.01.010 AUTHORITY TO ISSUE CITATIONS. Building, electrical, mechanical, plumbing and zoning inspectors and their immediate superior officer of said inspectors of the department of building are authorized to prepare, sign, and serve misdemeanor citations, pursuant to NRS Chapter 171, to

enforce the provisions of Titles 22,23,24,25,27,28 and 29 of this code, and shall diligently prosecute the violation thereof. (Ord. 846 I7, 1983: Ord 644 I1 1979) C.C.Code.

Numerous Clark County enforcement inspectors and building inspectors visited Engel's. Not one ever wrote a citation. Not one issued a warning. Not one found any violation or threat to public health, public safety, public morals or general welfare against Engel. The case is "ripe" for federal review because the county chose and continues to choose unlawful (unconstitutional) methods to achieve their goals when lawful routes were open.

F. The Appeals Court raised a question had the Planning Commission made a final decision? Chapter 3.12 of the C.C. Code indicates that the seven members of the planning board are appointed by the chairman of the board of county commissioners with approval of the board. Sec. 3.12.090 indicates proof of final action by this board.

3.12.090 REPORTS AND RECOMMENDATIONS. The Clark County Planning Commission, through the director of the county planning department shall make report of its findings, determination or recommendations to the board of county commissioners as may be authorized under applicable law or ordinance. (Ord. 201110,1964)

Since the matter referenced by the Appeals Court

was sent to the Clark County Commission on May 21, 1986 the Planning Commission had reached its required final decision and made its required report as mandated by the law. (3.12.090)

G. There exist also a combined Board of Building Appeals established under Clark County Code. 22.02.130. This board is prevented by law from deciding variance issues and lacks competence in Civil Rights Law. Its purpose as stated in the code is to determine the suitability of alternate materials and methods of construction. It is composed of 22.02.130(B) C.C. Code, one architect, one general contractor, one engineer, one representative of industry, one layman and one building official to act as secretary and member officio; provided , that he shall have not vote.

Code section 22.02.130 specifically limits the scope of this board's authority. "The board has no authority to grant waivers or variances to specific code requirements." Engel's case involves the violation of his Civil Rights, racial discrimination, economic discrimination,

U.S. Constitutional law, ex post facto law, bill-of-attainder law, etc. The purpose and personnel of the materials board indicates it is not competent to deal with the questions raised by this case.

Further, this case arises from a bogus variance requirement regarding a non-existent mobile home. This board is specifically prevented by law from making decisions on variances

ZONING PRECEDENTS

Zoning precedents also establish grounds for jurisdiction in federal court for this case.

Ordinances regulating the use of land may be attacked as enacted or as applied; in an "applied" challenge ordinances which might be inoffensive on its face is claimed to have been applied by the public officials to a particular parcel in such a way as to produce unconstitutional results. *Kinzli v City of Santa Cruz* 539 F Supp. 887.

A land use decision which arbitrarily singles out a particular parcel for different, less favorable treatment than neighboring is not a proper exercise of police power. *Hanky v City of Richmond*, 532 F Supp 1298.

D.C. Mich. 1980 As a general rule, official action come cloaked with a rebuttable presumption that public officers have applied a zoning ordinance in a regular and lawful manner. *Beasley v Potter*, 4399 F. Supp 1059.

D.C. Ark 1984 Zoning and land use enactment may not be upheld unless it is a valid exercise of police power, and such

enactment must bear definite relation to health, safety, morals and general welfare of inhabitants of the part of the city where the property zoned is situated. *Corder v City of Sherwood*, 579 F Supp. 1042.

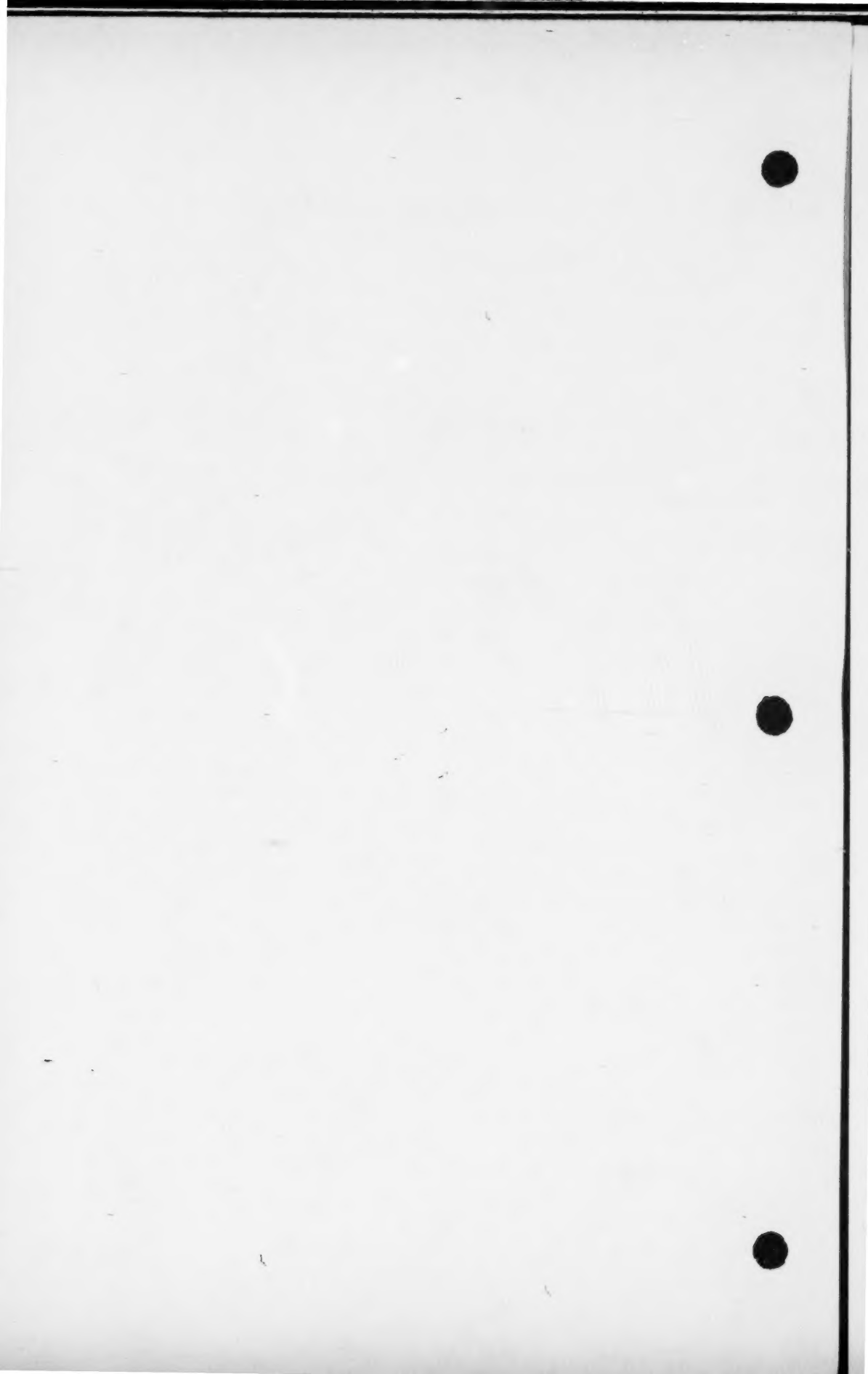
Bkrtcy. Cal 1981 If a California property owner has performed substantial work and incurred substantial liabilities in good faith reliance upon a permit issued by government, he acquires vested right to complete construction within terms of the permit. *San Clemente Estates v City of San Clemente* 12 B.R. 209.

As evidenced by the Clark County Code Engel made all possible appeals in the system of local government before filing in federal court. The right to sue in federal court is a substantial one that should not be denied. The only appeal available from the powerful elected Clark County Commission is to the United States and Nevada constitution and courts. Engel made a reasonable effort to resolve the matter before and since coming to federal court. The county had lawful means at its disposal to condemn a guilty person, but chose irregular (unlawful) methods instead against Engel. The Court of Appeals has placed upon Engel the burden of proving himself innocent rather than the government (county) proving him guilty. Also the Pro SE plaintiff is being required to provide information to the court, such that he is compelled to

testify against himself. To date Engel has not even been provided a hearing in federal court in which to prove his innocence. Therefore, he anticipates justice from the Supreme Court in the question of jurisdiction. He anticipates justice also in the question of the violation of his constitutional rights by the government.

MATURITY OF PRECEDENTS ON BILL-OF-ATTAINDER

The maturity of the precedent cases on Bill-Of Attainder attests to the fact that the issues are fundamental. Because of this fact Engel's case can be viewed from several perspectives representing each of his rights that have been violated: Due Process, Taking Clause, Speedy Trial, Impartial Jury, Nature and Cause of Accusation, Confrontation of Witnesses, Compulsory Process for Obtaining Witnesses, Assistance of Counsel, Excessive Bail, Cruel and Unusual Punishment, Compelling to Testify Against Himself, Preventative Detention or Deprivation, Separation of Powers. Violation of building and zoning law is classified as a misdemeanor in Clark County therefore sanctions applied against Engel were criminal in nature. As one studies the attainder in U.S. history one discovers it is disguised in many forms. Not only do the victims suffer penal sanctions but it places upon them the burden of proving themselves innocent and in many instances compels them to testify against them-



selves in order to even provide evidence of jurisdiction to the courts.

Such punishments may not constitutionally be inflicted without a prior criminal trial with all the safeguards guaranteed by the Fifth and Sixth Amendments, including indictment, notice, confrontation, jury trial, assistance of counsel and compulsory process for obtaining witnesses. Bill-Of-Attainder case *Kennedy v Mendoza-Martinez* 372 U.S. 144.

The act being of this character partakes of the nature of a bill of pains and penalties, and is subject to the constitutional inhibition against the passage of bills of attainder, under which general designation, bills of pains and penalties are included. *Ex parte Garland* 71 US (4 Wall) 333 (1867)

The methodology employed by the Clark County Commission provided no checks or balances. If it may banish at discretion all those whom particular circumstances render obnoxious, without a hearing or trial, no man can be safe, nor know when he may be the innocent victim of a prevailing faction. Chief Justice Warren E. Burger referred to the theory of the separation of powers in the Constitution as dividing the powers of government into "three defined categories, legislative, executive and judicial" which are "functionally identifiable". Engel's case demonstrates how Clark County has erased all "functional" lines. In a concurring opinion Justice Lewis F.



Powell indicated a legislative body had improperly exercised judicial power by ruling on the case of a particular individual rather than making a general rule. We see that the county violated a rule of great fundamental importance, The Generality of Law. (restricting legislative power to the general rather than the particular.) See *Immigration and Naturalization Service v Chadha*. (1983) 102 SCt 87,454 US 812, 77 L Ed2d 80

The point is that the same principles of Attainder cases appear in many, important, recent cases even though not specifically, identified as such. Attainder has not decayed away in American Law. Some legal authorities, even judges, may overlook their significance and jurisdiction, but they are today as they were in the Middle Ages a test of our Civilization.

ACTS OF TERROR

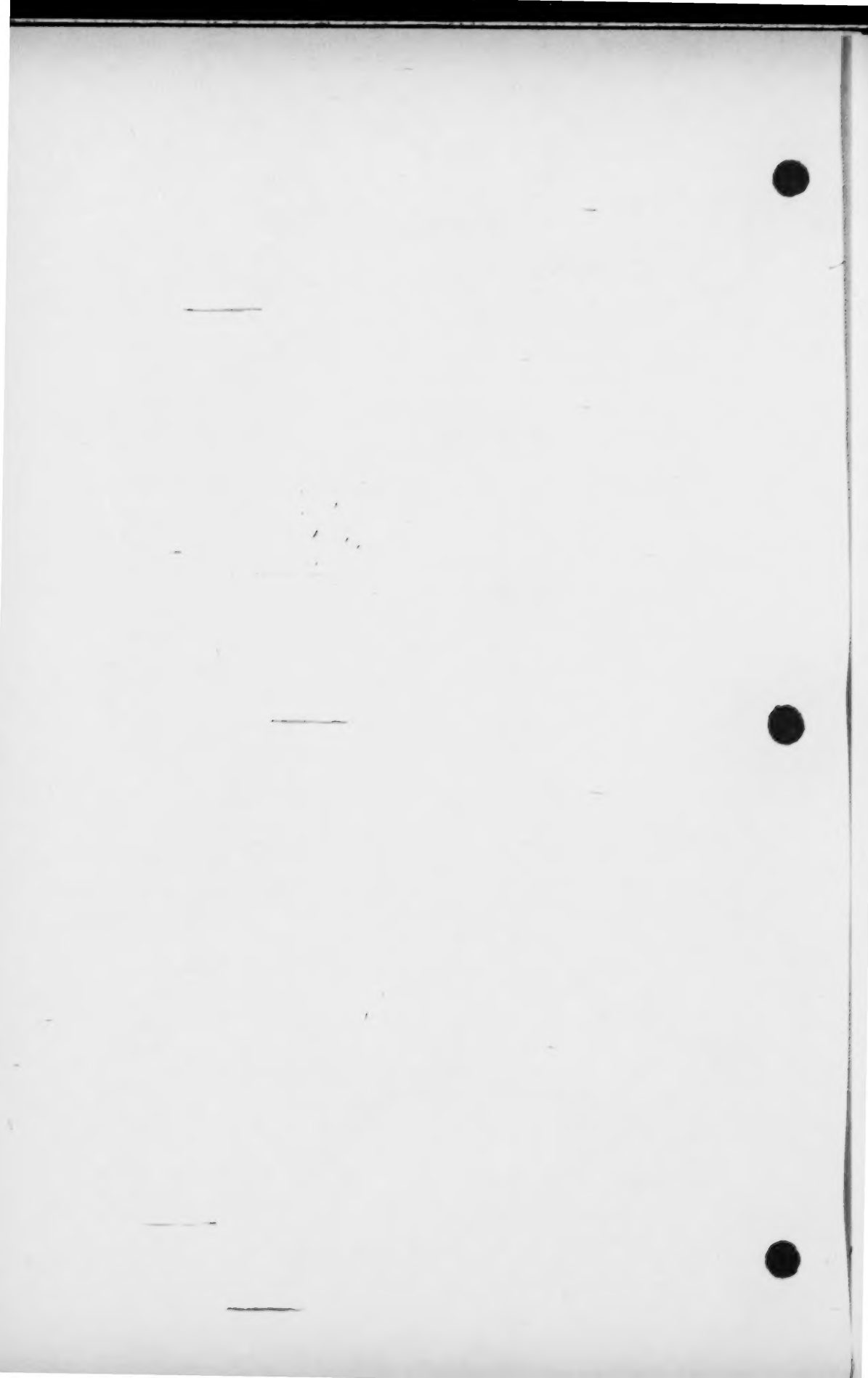
Clark County must also be held accountable for Acts of Terror which placed the Engel family in danger of their lives and threatened severe damage to their property. The property is located in an area deemed a disaster area on one recent occasion due to flash flooding. Engel's and a neighbor's property were protected by a earthen flood dike located on private property. The county held a public meeting in which they required the flood dike to be removed. Engel was not notified of the public meeting or its subject matter. The county removed the dike. The county failed to notify Engel of the danger they had created by diverting the water into Engel's property. Engel suffered property damage and lives were threatened. The county refused to provide assistance. The dike was located in such a position in which it would be difficult to detect its removal without notice, until too late. See original complaint.

RACIAL DISCRIMINATION

The political power base in Clark County and Las

Vegas is Mormon. Elected officials are Mormons, for example, U.S. Senator Harry Reid, etc. It appears that to some Mormons, Engel's bi-racial marriage and asian wife are viewed as threatening and offensive. A demonstration is when a Mormon family named Singer, in Utah used violence to oppose sending their children to integrated schools. They had the sympathy of many Mormons. Unfortunately, for Engel they are anti-semitic also.

The Las Vegas Chapter of the NAACP recently registered a complaint when the Clark County Fire Chief reported in a newspaper article that Clark County shows a preference for hiring Mormons because, "they always come to work on time." Engel and his asian wife were compelled to be grilled in public commission meetings of a dark and inflammatory nature to avoid "County Enforcement Teams". The meetings were racially exploitative. The audience was largely composed of poorly educated, illiterate whites employed in the gambling industry.



FALSIFIED EVIDENCE & CRIMES

The record and evidence demonstrates county officials fabricated and falsified evidence.

Engel reported the following crimes to the FBI in Orange County California office: political corruption, extortion, blackmail, conspiracy, coercion, and collusion. Also see the U.S. Justice Dept. report on building and zoning corruption in general, located in the appendix.

REMEDY

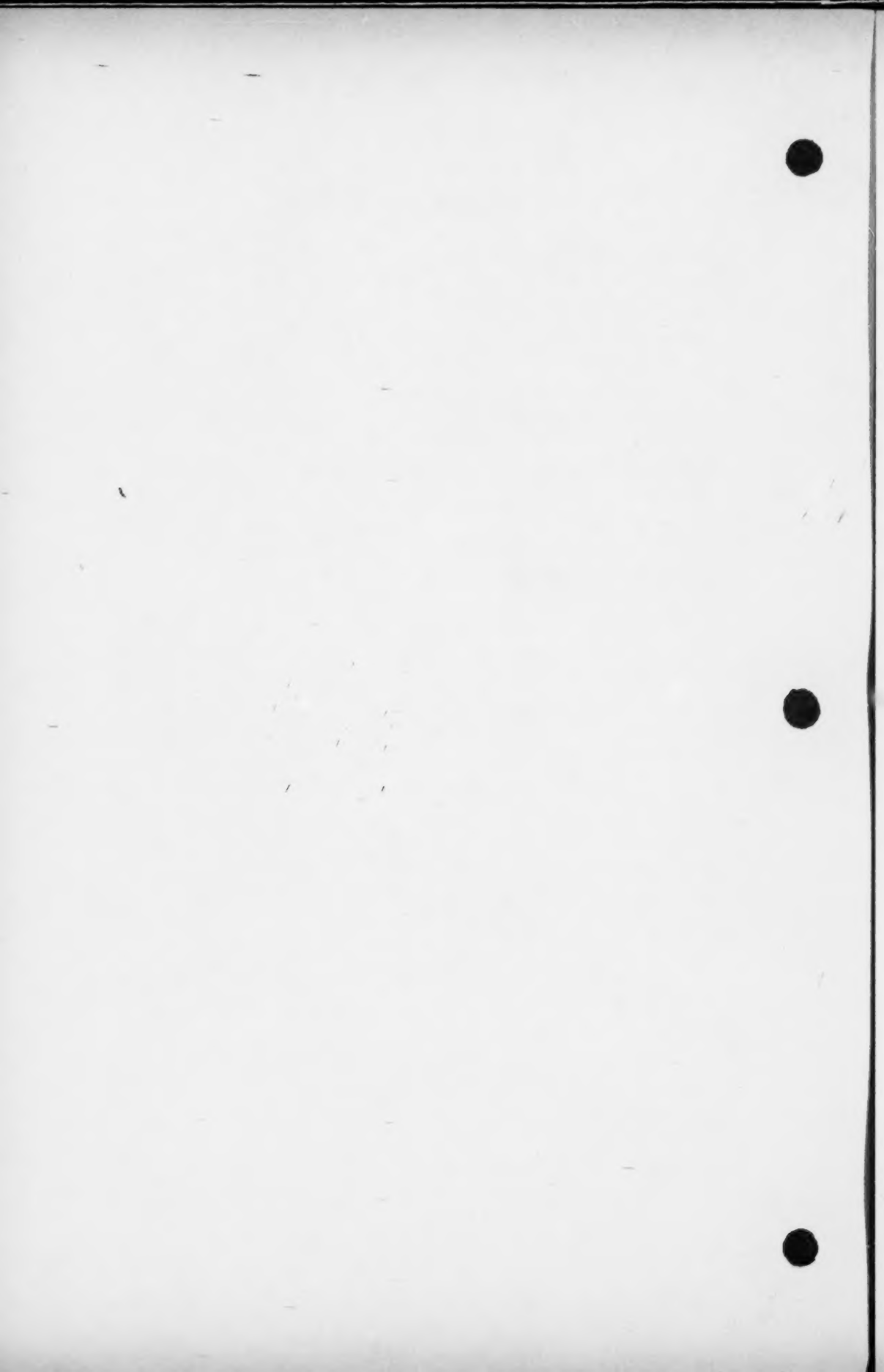
42 U.S.C. 1983 provides for the payment of damages for deprivation of Civil Rights.

12 Corpus Juris 820, 821,822,823,824 signals unlawful acts requiring compensation.

16 Corpus Juris Secundum 452 signals unlawful acts requiring compensation.

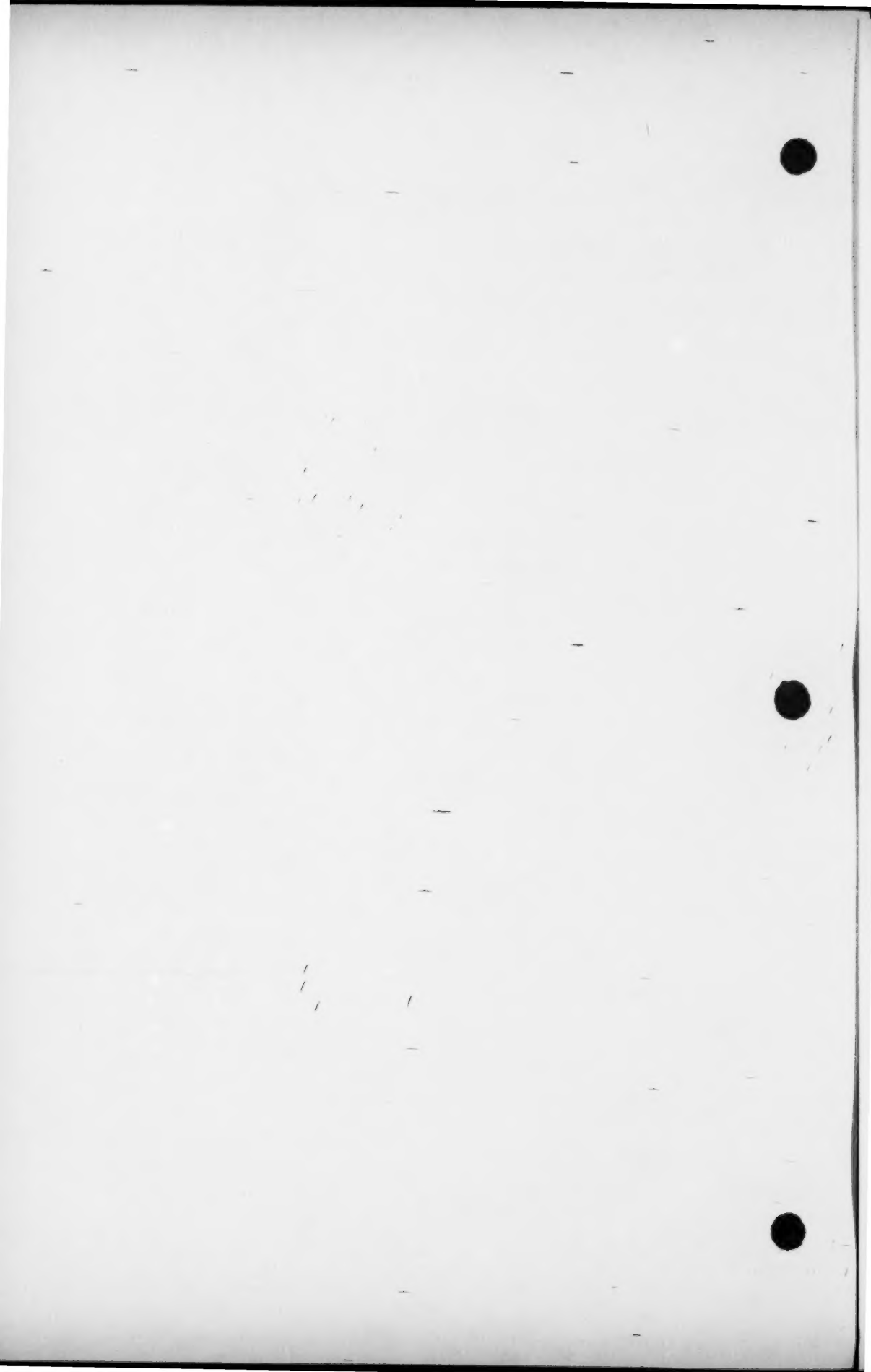
"Temporary" regulatory taking which deny a landowner all use of his property, are not different in kind from permanent takings for which the constitution clearly requires compensation. F.E.E. Luthern Church of Glendale v L.A. County, CA NO. 85-1199 decided by the Court on 6/9/87.

Clark County should pay compensatory damages that would permit Engel to have a comparable house built (same



plans) on a comparable size and location of lot in a California community.

Clark County should pay punitive damages in a manner similar to Clark County Code Section 22.02.140 for violations. Violation of each of Engel's Civil Rights shall be considered a separate offense, and the county shall be deemed guilty of a separate offense for each and everyday that deprivation to Engel has occurred and each person so deprived shall be similarly compensated. The amount should be \$10,000 per each deprivation of a right, times each day the deprivation was in effect, and times the number of interested parties to this case.



PLENARY CONSIDERATION

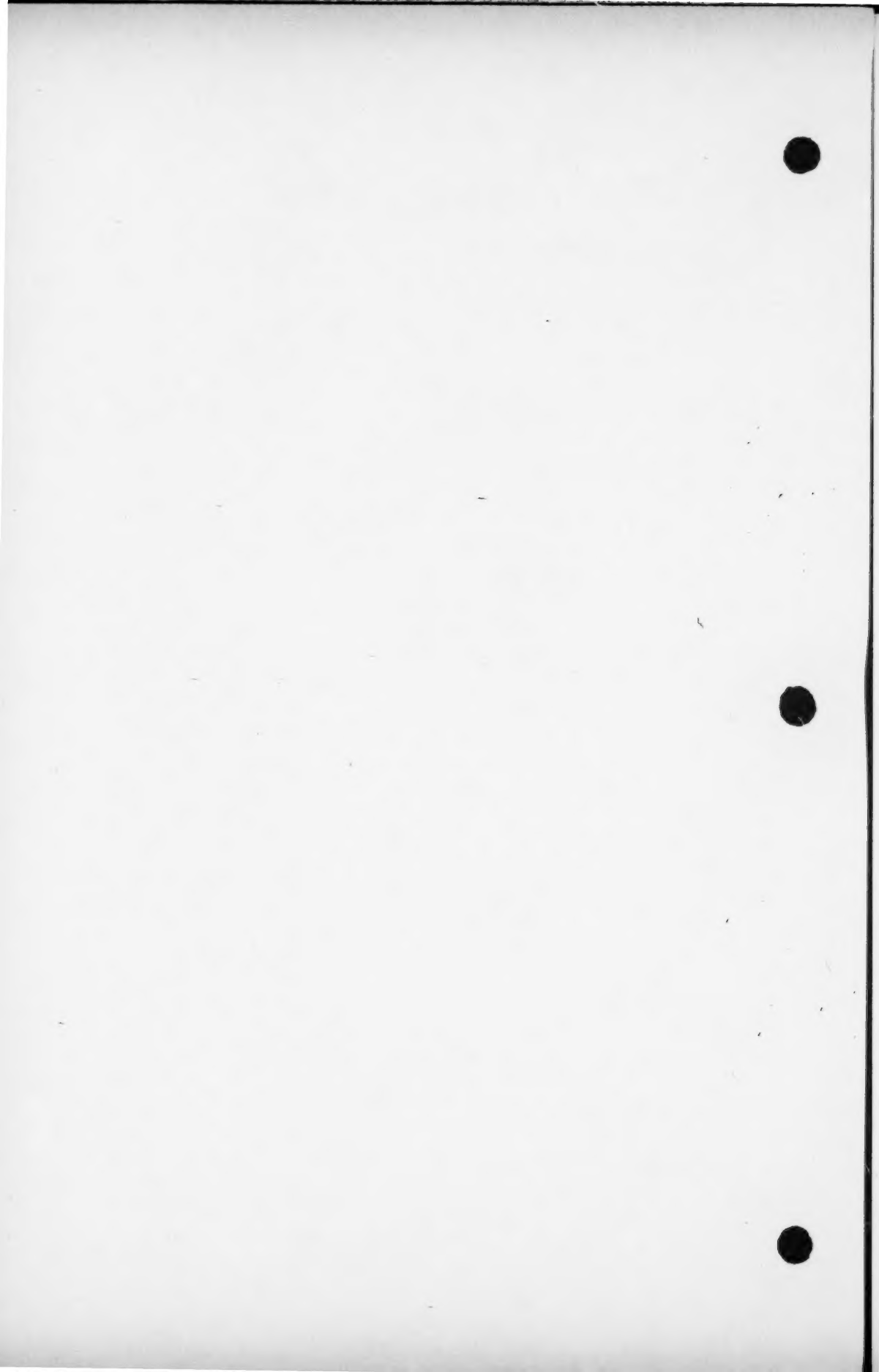
This action can be condensed to two short questions:

1. Was Engel punished and deprived by the government?
2. When was his trial?

The record indicates that Engel was punished and deprived. The constitution requires the government to prove there was a trial and conviction and that Engel was provided all of the protection guaranteed by the Bill of Rights.

The Appeals Court's decision is in conflict with decisions by the Supreme Court and decisions by other courts of appeal. Citing on pages 6, 17, 21, 22, 24, 28, 32, 36, 37, 40, 44 address fundamental issues of this case that bear on the decision. The lower courts have ignored the Bill-Of-Attainder and Fraud by the defense. Engel believes his case is "ripe" for federal jurisdiction.

Competency of the lower courts on the central issue of the case is also a matter for contemplation. The words Bill-Of-Attainder should be sufficient. This case demonstrates that the full meaning and significance of those words have become obscured by time and disuse to those persons who by mandate, should clearly understand them.



Among the constitutional guarantees against the abuse of government power are these three: First, he cannot be punished until judicially tried; second, he cannot be tried for an act innocent when committed; and third, when tried he cannot be made to bear witness against himself. Engel has not only been deprived by Clark County, but the federal courts have also failed. The federal courts have failed to perceive and address the deprivation worked upon Engel when Clark County conspired to disguise the Form of punishment by creating qualifications or conditions in order to do by indirect means what is prohibited by direct means.

You can punish in two ways: you can charge with alleged crime, and proving it punish for it; or you can required the party to purge himself by oath or pledge; and if he refuses, punish him by exclusion from a right or privilege. Clark County converted what were in fact penal sanctions by circuitous methods into a Civil burden upon Engel. The federal court ignored the Bill-Of-Attainder and required Engel to prove first this and then that and finally

if he has the endurance he may have the opportunity someday to prove himself innocent instead of requiring the government to prove him guilty.

Is it even possible that in providing all the facts, information and proof the federal courts wish to see that Engel could be spared his guaranteed right not to be made to bear witness against himself? What is the source from which the Appeals Court gleans its conclusion that *Engel alleged he was denied* (not deprived and punished) *a building permit*? Was it not their interpretation of facts gleaned in part from documents that must provided in the complaint? Did the Attainder form work a deprivation upon Engel's right not to be compelled to bear witness against himself? The answer is yes and the lower federal courts all failed to secure Engel's rights guaranteed by the Constitution.

The county's method could be struck down upon the principle of overbreadth. This is demonstrated in the argument against Bills-Of-Attainder by Alexander Hamilton cited on page 292 of *Cummings v Missouri*.



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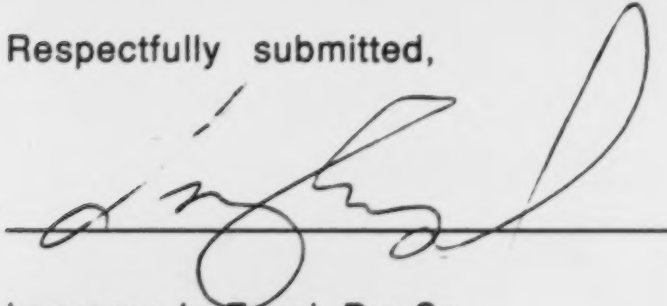
. . . Nothing is more common, than for a free people in times of heat and violence to gratify momentary passion by letting into government principles and precedents which afterwards prove fatal to themselves. Of this kind is the doctrine of disfranchisement, disqualification, and punishments by acts of legislature. The dangerous consequences of this power is manifest. If the legislature can disfranchise any number of citizens at pleasure, by general descriptions, it may soon confine all the voters to a small number of partisans, and establish an aristocracy or oligarchy. If it may banish at discretion all those who particular circumstances render obnoxious, without hearing or trial, no man can be safe, nor know when he may be the innocent victim of a prevailing faction. The name of liberty applied to such a government would be a mockery of common sense. . . The people are sure to be losers in the event, whenever they suffer a departure from the rules of general and equal justice, or from the true principles of universal liberty.

Clark County returned to the Dark Ages before the Magna Carta to discover their "new" method to inflict punishment without trial. It was not by accident that Ben Franklin, George Washington, James Madison and the other Founding Fathers placed Attainder into the very first Article of the Constitution two years before the Bill of Rights was ratified. It is a test of our Civilization. The terrible weapon of Attainder has again been unsheathed and now it is only the honor and wisdom of this Court that will keep it from the rabid hands of every Las Vegas, whoremonger, crap dealer and hood. (businessmen?)

Larry Engel v Clark County, Nevada

Dated this 14th day of September 1989.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Engel', is written over a horizontal line. The signature is stylized with a large loop at the end.

Lawrence L. Engel, Pro Se

3388 West Cougar Ave

Las Vegas, NV 89118 (702) 381-7018

P.O. BOX AB

Garden Grove, California 92641 (714) 890-9434

CERTIFICATE OF MAILING

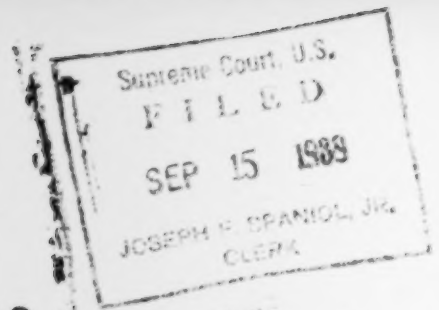
I hereby certify that on the 15th day
of September, 1989. I deposited the United
States Mail, postage prepaid, certified, receipt
requested, at Las Vegas, Nevada, enclosed in a
sealed envelope, copies of the above and
foregoing PETITION FOR WRIT OF CERTIORARI
addressed as follows:

Rex Bell, D.A.
Charles K. Hauser, D.D.A.
225 Bridger Avenue, Eighth Floor
Las Vegas, Nevada 89155

by Long Engel

by Long

89-613



number _____ U.S.

**THE SUPREME COURT OF THE UNITED STATES
1989 TERM**

**LAWRENCE L. ENGEL, PRO SE PETITIONER
v
CLARK COUNTY, NEVADA RESPONDENT**

**Petition on Writ of Certiorari to the
United States Court of Appeals
for the Ninth Circuit**

APPENDIX

**Lawrence L. Engel, PRO SE
3388 West Cougar Avenue
Las Vegas, NV 89170
(702) 361-7018**

**P.O. Box AB
Garden Grove, CA 92641
(714) 890-9434**

3788

EDITOR'S NOTE:

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BETTER COPY CAN BE OBTAINED, A NEW FICHE
WILL BE ISSUED.

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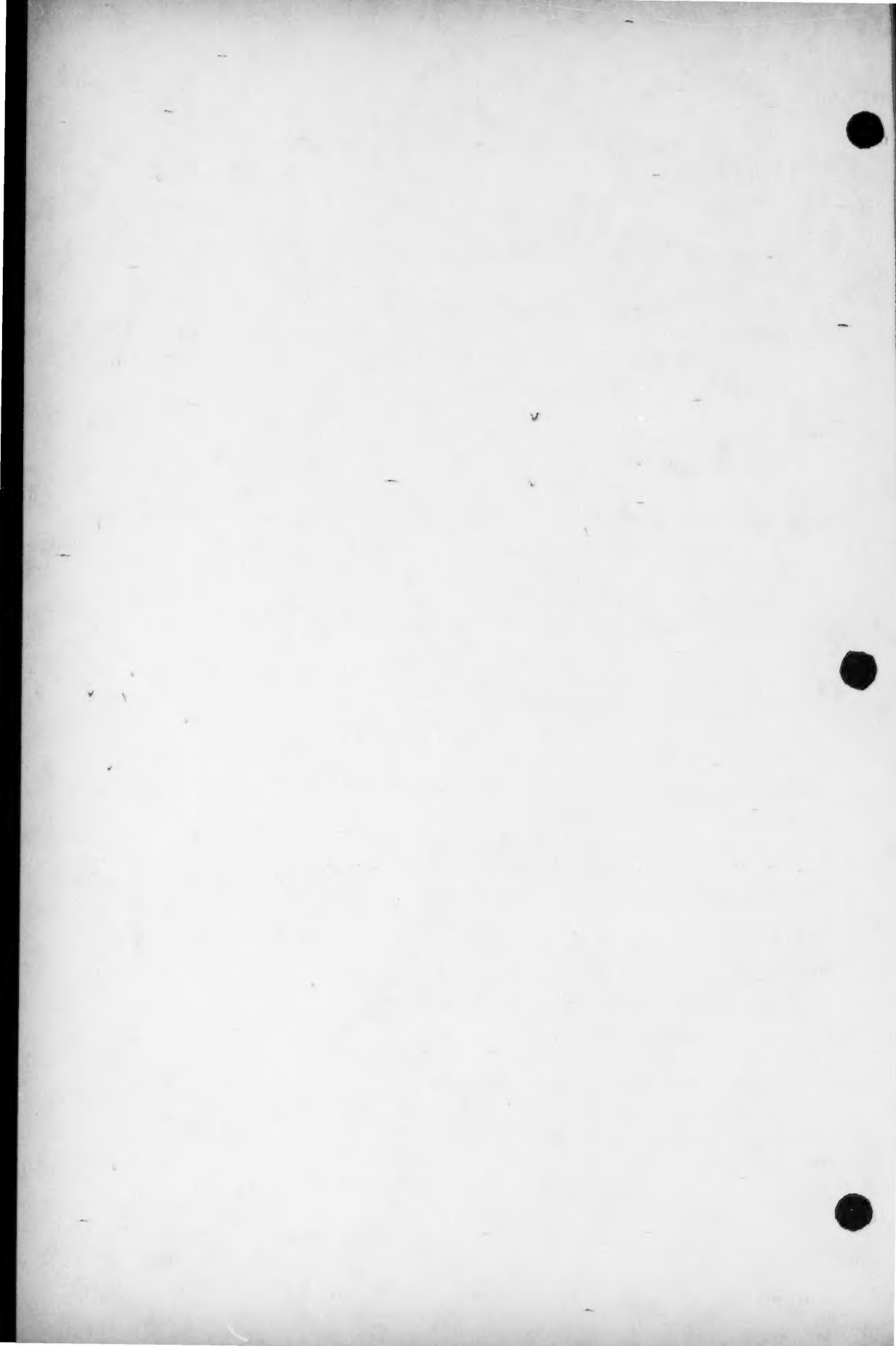


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FILED JULY 21, 1989

Clerk , U.S. Court of Appeals

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRUIT

Lawrence Lee Engel,

Plaintiff-Appellant

No. 87-2807

vs.

D.C. No. CV-87-

Clark County, Nevada

0419-HDM

Defendant-Appellee.

ORDER

BEFORE: FARRIS, THOMPSON, and TROTT, Circuit Judges.

The panel as constituted in the above case has
voted to deny the petition for rehearing.

The petition for rehearing is DENIED.

FILED JULY 21, 1989

Clerk , U.S. Court of Appeals

NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRUIT

Lawrence Lee Engel,

Plaintiff-Appellant

No. 87-2807

vs.

D.C. No.
CV-87-0419-
HDM

Clark County, Nevada

Defendant-Appellee.

MEMORANDUM

Appeal from the United States District Court
for the District of Nevada
Honorable Howard D. McKibben, District Judge, Presiding
submitted June 8, 1989
San Francisco, California

BEFORE: FARRIS, THOMPSON, and TROTT, Circuit Judges.

Lawrence Lee Engel appeals pro se from the district court's dismissal of his action under 42 U.S.C. 1983. Engel alleges that Clark County violated his constitutional rights by denying him a building permit. He contends that the dis-

trict court erred in dismissing his action for lack of subject matter jurisdiction. We affirm.

ANALYSIS

The issue presented by this appeal is one of law which this court reviews de novo. Peter Starr Prod. Co. v. Twin Continental Films, Inc., 783 F.2d 1440, 1442(9th Cir. 1986). We may affirm the district court on any ground supported by the record, even if the district court relied on different reasons. Big Spring v. U.S. Bureau of Indian Affairs, 767 F.2d 614,616 (9th Cir. 1985), cert. denied, 476 U.S. 1181 (1986)

The question of ripeness goes to the subject matter jurisdiction of a federal court. Shelter Creek Development Corp. v City of Oxnard, 838 F.2d 375,377 (9th Cir), cert. denied, 109 S.Ct. 134 (1986). In actions involving land use disputes, "the doctrine of ripeness is intended to avoid premature adjudication or review of administrative action." Herrington v. County of Sonoma, 857 F.2d 567,568 (9th Cir 1988), cert. denied, 109 S.Ct. 1557 (1989). Constitutional challenges of land use decisions are ripe for

review when the aggrieved party has received the planning commission's "final definitive position regarding how it will apply the regulations at issue to the particular land in question." MacDonald, Sommer & FRATES V. Yolo County 477, U.S. 340,351 (1986)(quoting Williamson County Reginal Planning Comm'n v . Hamilton Bank, 437 U.S. 172, 191 (1985)).

We have held the "final decision" requirement applicable to procedural and substantive due process, equal protection, and regulatory taking claims brought to challenge the application of land use regulations, See Hoehne v. County of San Benito, 870 F.2D 529, 532 (9th Cir. 1989) (Citing cases). The aggrieved property owner has a "high burden of proving that a final decision has been reached by the agency before it may seek compensatory or injunctive relief in federal court on federal constitutional grounds." *Id.* at 533.

We are unable to discern from the record whether "the end of the road was reached" by the parties to this action. *Id.* at 535. Because appellant has failed to demon-

strate that the requisite "final decision" has been obtained, he has not shown that his case is ripe for review by a federal court. AFFIRMED.

Filed September 11, 1987
U.S.D.C. Nevada

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Lawrence Lee Engel

CV-S-87-419-HDM

Plaintiff,

vs.

ORDER

Clark County, Nevada

Defendants.

The plaintiff, Lawrence Lee Engel, has filed a complaint alleging jurisdiction under 42 U.S.C. 1983. He seeks among other things in his complaint a preliminary injunction to compel the defendants to conduct a building inspection on his property located at 3330 West Cougar, Las Vegas, Nevada. The defendant Clark County has refused the plaintiff's request contending his building permit expired on August 25, 1986.

Federal courts are courts of limited jurisdiction. Since the state courts are courts of general jurisdiction the presumption is that they have subject matter jurisdiction over a particular controversy unless a

showing is made to the contrary. The federal courts on the other hand are empowered to hear only those cases that (1) are within the judicial power of the United States as defined in the Constitution and (2) that have been entrusted to them by a jurisdictional grant by congress. Owens Equipment and Erection Co. v Kroger, 437 U.S. 365 (1978). A party seeking to invoke the jurisdiction of a federal court must demonstrate that the case is within the jurisdiction of the court. The presumption is that a federal court lacks jurisdiction in a particular case until it has been demonstrated that jurisdiction over the subject matter exists. California v Andrus, 608 F.2d 1247 (9th Cir. 1979).

The sole issue which the plaintiff raises here is whether the defendants improperly denied him a building permit. As stated in Chogris v. Board of Appeals of Town of Andover, 811 F.2d 36, 42 (1st Cir. 1987) the "heavy duty machinery of the Civil Rights Act" does not encompass the subject of the revocation of a building permit. See also Chiplin Enterprises, Inc. v. City of Lebanon, 712 F.2d

1524 (1st. Cir. 1983) The allegations raised in the plaintiff's complaint all relate to the matters for which he may seek appropriate redress in the state courts applying state, not federal, law. The issues he raises simply are not cognizable under 42 U.S.C. 1983. It is inappropriate for the plaintiff to seek review of local zoning and planning disputes by means of 42 U.S.C. 1983. Even given the broadest reading of the allegations in the complaint, plaintiff has simply set forth a conventional land use dispute between himself and the defendants. These are matters of concern to the state and do not implicate the Constitution. This federal court is not a zoning board of appeals; therefore, the court concludes the plaintiff has failed to raise a substantial question under Section 1983 and this action should be DISMISSED. IT IS ORDERED that the defendant's motion to dismiss be and here is GRANTED.

Dated this 9th day of September, 1987.

HOWARD D. MCKIBBIN

U.S.D JUDGE

Filed December 21, 1987
U.S. Court of Appeals for the 9th Cir.

UNITED STATE COURT OF APPEALS

FOR THE 9TH CIRCUIT

ENGEL v CLARK COUNTY, NV
No. 87-6116
D.C. CENTRAL CA No. CV-87-1970 WMB

ORDER

Appellee's motion to dismiss the appeal for lack of jurisdiction is granted. The district court order transferring venue was not a final appealable order. See Varsic v U.S.D.C. 607 F2d 245, 251. The appeal also cannot be construed as a petition for writ of mandamus because appellant has not demonstrated extraordinary circumstances justifying mandamus relief. U.S. V Gregor, 657, F2d 1109.

Note: Rule 81(b) Civil Procedure Mandamus was abolished.
L. Engel

Filed March 26, 1987
U.S.D.C. Central District of California

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
No. CV-87-1070-WMB

ORDER TRANSFERRING ACTION TO NEVADA

The action arises solely from a dispute between plaintiff and the officials of Clark County, Nevada, concerning real property which plaintiff owns there. It should almost certainly be tried in a Nevada state court, but even if federal courts have jurisdiction under the Civil Rights Act, as alleged, venue indisputably lies only in Nevada. 28 U.S.C.(b)

The Clark County Commission
225 Bridger Avenue
Las Vegas, NV 89155

8/22/89

Dear Commissioner, Manuel J. Cortez, Jay Bingham, Paul Christensen, William Pearson, Thalia Dondero, Bruce Woodbury, Karen Hayes;

As you should know I have filed legal action against Clark County , Nevada. As a member of the Clark County Commission I have alleged that you are responsible for the deprivation of my Civil Rights under the Constitution of the United States of America and Amendments. Specifically, you are alleged to have violated Article I, Sec 9 cl. 3 and sec 10 of the Constitution the Bill of Attainder Clause and others.

My chances of prevailing in this action remain 50/50. They are now enhanced because of my increased knowledge and experience you have inadvertently made necessary by forcing legal action. Prior to filing my action I made a prayer of relief to your. You decided to ignore it. Response by the heard of the Building Department was intentionally slow and arrived following the expiration

of the statute of limitations and action had been filed.

Now the case will proceed to the Supreme Court of the United States of America in Washington, D.C. Again I write to you with a prayer for relief and damages as I have been punished and deprived by you and the Clark County Commission without a judicial trial to determine the question of guilt and without a avenue of relief except legal action.

The Clark County Commission assumed judicial magistracy; it pronounced upon my guilt, without any of the forms of safeguards of trial; it determined the sufficiency of proofs produced, whether conformable to the rules of evidence or otherwise; and it fixed the degree of punishment in accordance with it own notion of the enormity of the offense.

My question to you is do you know of any appeal procedure within Clark County that would permit me to resolve this matter?

Sincerely yours Larry Engel address.

Note: This prayer for relief was ignored just like the other two. L. Engel

The Project team also reviewed newspaper accounts of corruption from 1970 to 1976, identifying 372 corruption cases in forty-seven states and Washington, D.C.; corruption incidents were reported in 103 cities. Of the 372 cases, 112 concerned government contracting, eighty-three dealt with land use, forty-five concerned personnel matters, and the rest involved issues such as law enforcement and abuse of government benefit programs. According to the study, various groups estimate annual payoff costs ranging from \$3 billion to \$5 billion. The study identified some of the major reasons leading to corruption as substandard pay, lack of supervision, lack of accountability, and a consensus that the policies being enforced were in themselves, undesirable.

Suburban real estate development was cited as a principal cause of corruption in recent years, with the major figures in such corruption likely to be land developers (with their associated lawyers, bankers and others) and officials associated with subdivisions (zoning commissioners, boards of supervisors, officials approving development plans) in



suburban areas. One problem, the report said was that many suburban jurisdictions had no land-use plans and many others had inconsistent zoning ordinances. The most frequent form of corruption in land-use and building regulation usually involves the smallest dollar amounts such as giving a clerk \$10 or \$20 to expedite the processing of an application or, giving building inspectors \$50 to overlook a minor violation of the building codes. Less frequent, but involving much larger sums, are the payments to secure approval of zoning changes or subdivision plans; payoffs totally \$50,000 to \$100,000 are not uncommon on major developments.

The study suggests these steps to control corruption; require financial disclosure statements from regulators; enact "sunshine legislation" requiring open meetings; make regulators record their decisions and the reasons for them; organize citizen watchdog groups; control the procedures of clerical personnel; hire strong city managers with professional backgrounds and pay them adequately; and reduce the opportunities for corruption by reducing the numbers of decisions.

**CORRUPTION
LAND USE AND BUILDING REGULATION
UNITED STATES DEPARTMENT OF JUSTICE**

A new sturdy, "Corruption in Land Use and Building Regulation," was released June 12 by the Law Enforcement Assistance Administration (LEAA). The 2-year, six volume study was financed with \$265,000 from the National Institute of Law Enforcement and Criminal Justice, LEAA's research arm; it was conducted by SRI International, Menlo Park, California.

By focusing on ten communities, the study investigated how corruption developed, its frequency in some areas of government rather than others, and ways to reduce it. The ten cases selected for in-depth research were: Fairfax County, VA.; Hoffman Estates, Ill.; Broward County, Fla.; Clark County, NV.; Cincinnati; New York City; East Providence, R.I.; San Diego, Cal.; Santa Clara, Cal.; and Arlington Heights, Ill. Corrupt practices were discovered in all the areas except Arlington Heights, which was chosen for the study because of its lack of corruption and because cases of corruption turned up in communities around it.

NEWSPAPER ARTICLE
ZONING VARIANCES THE RULE

BY ANITA WELER
REVIEW JOURNAL SUNDAY 1/24/88

Zoning exceptions and changes are the rule in Clark County, where officials granted roughly 90 percent of the 782 variances, 398 conditional use permits and 335 zone changes requested in 1987. . .

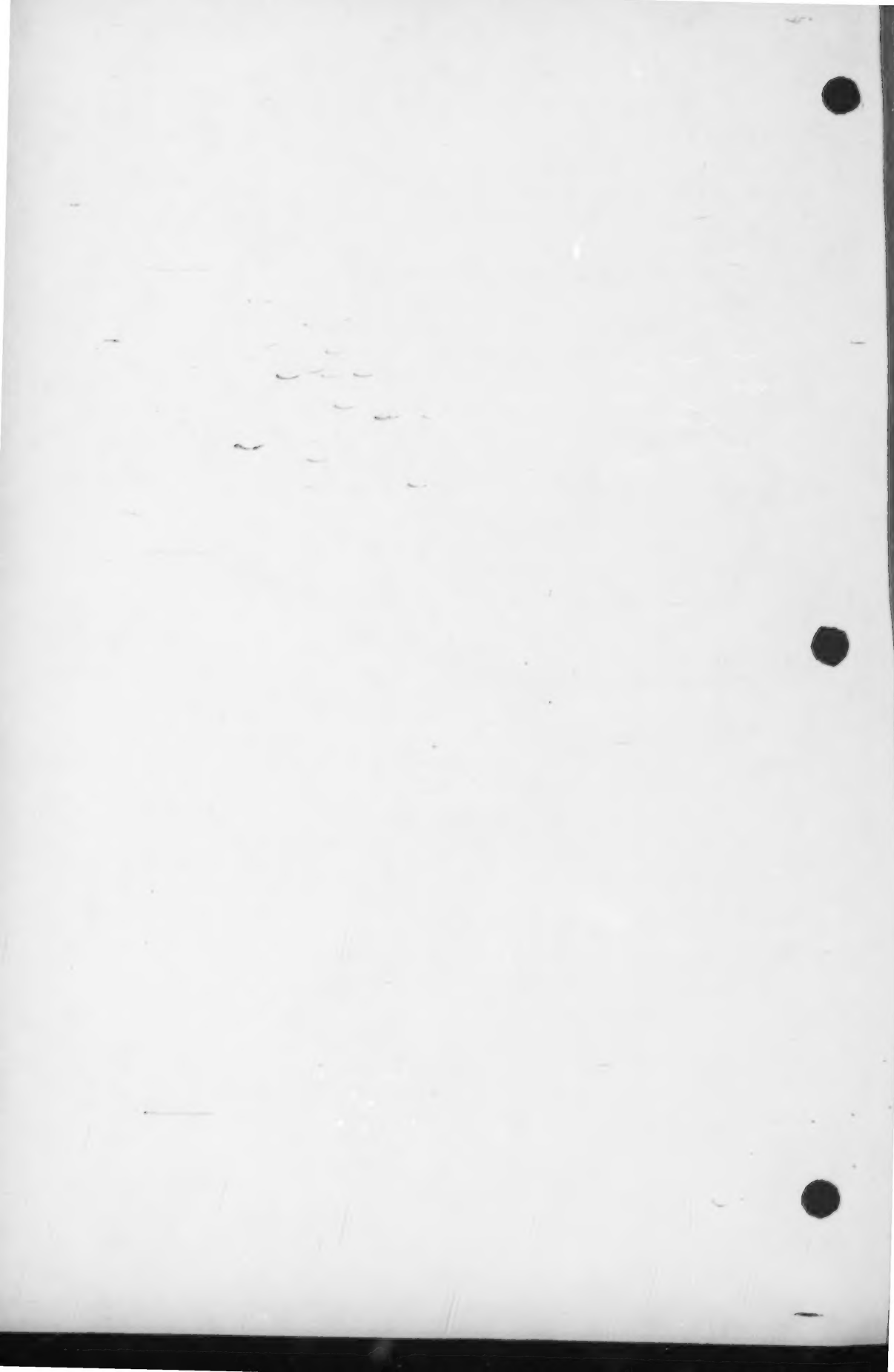
And Clark County not only exceeds Los Angeles County, but most other counties in the country, in variances granted, said Greg Borgel. "We grant not only proportionately more, but absolutely more, than any other jurisdiction". . . "Even if there is a technical violation of the code, they tend to be more charitable toward variances than other jurisdictions."

Clark County Commission Chairman, Paul Christensen said, ". . . we look at individual items, if we did not we would have a hue and cry for zone changes. Individual control is a lot better deal for the public. Using permits and variances gives us more controls over the uses than blanket zoning, and it gives us flexibility."

C.C. Zoning Coordinator Bonnie Rinaldi, "The commissioners look at each use with its specific plans for

development, and on a case-by-case basis can approve the use and the plans, usually under certain conditions of development".

8A



CLark County Building Department
Carl Wittington, Business Director

8/30/86

Dear Building Department;

On August 21, 1986 I passed an inspection of septic system by the Clark County Health District. I have enclosed a copy of the report of inspection marked approved.

Would you please add this inspection to your computer record of inspections that we have passed. This should give us a valid building permit for another 6 months until february 21, 1986.

If there is any problem or the time indicated in the above statement is not correct please inform me immediately.

Thank you

Larry Engel
3330 W. Cougar Avenue
Las Vegas, NV 89118
361-7018
Bldg. Permit #45-004725



**CLARK COUNTY BUILDING PERMIT
APPLICATION CENTER**

September 9, 1986
Larry Engel
3330 West Cougar Avenue
Las Vegas, NV 89118

REFERENCE: Request for Extension of Time
Building Permit No. 1-45
004725

In response to your letter of August 30, 1986 requesting an extension of time for Building Permit Number 1-45-004725, please be aware that an inspection of a septic system provides no basis for authorizing an extension of time for a building permit. The inspection of a septic system recognizes the presence of the system and has no direct bearing on the building permit itself.

Our records show the latest building permit issued to 3330 Cougar Avenue was on April 3, 1985; date of last inspection for a partial slab was February 25, 1986. The Uniform Building Code provides the permit holder 180 days to commence construction after date of permit issue. Once commenced work must progress as demonstrated by successful inspections every 180 days. Failure to demonstrate progress will cause the building permit to expire and become

null and void. Building Permit No. 1-45-004725 expired August 25, 1986. Plumbing permit NOI 3-56-002489 issued February 26, 1986 with a successful partial ground plumbing inspection on June 30, 1986 is current.

Your variance request (VC 42-85) heard last May contained special conditions that construction proceed on a timely basis towards completion of your single family residence.

Since your request for an extension of time cannot be granted on the basis presented, and in view of an expired building permit, I am forwarding your letter to our code enforcement group for follow-up.

Any questions pertaining to building permits may be addressed to the undersigned. Thank You

Carl Wittington

Clark County PAC Administrator

cc: Code Enforcement/Public Response Office

Residential/Rural Inspection Division

**CLARK COUNTY BUILDING PERMIT
APPLICATION CENTER**

Oct 7, 1986

CERTIFIED MAIL

Larry Engel
3330 West Cougar Ave
Las Vegas, NV 89119

REFERENCE: Building Permit
No. 1-45-004725

With reference to your letter of September 12, 1986 regarding construction work at property located at 3330 West Cougar Avenue, it is apparent that you need to establish a clearer understanding of the building development process before I can address your comments. To do so specific code references are presented which form the basis for response to code related items.

1. Owner-builder permittees - Clark County

Administrative Guidelines, Section 302(d) provides for a property owner to construct a single family residence on his property, for his own use if he "understand the provisions of this ordinance and technical codes and shall comply herewith."

2. Permits required - the Uniform Building Code

(UBC) Sec 301 (a) requires that no building or structure

regulated by the code shall be constructed unless a separate permit for each building or structure has first been obtained from the building official.

3. Permit expiration - UCB Section 303(d) states, "Every building permit issued by the building official under provisions of this code shall expire by limitation or become null and void if the building or work authorized by such permit is not commenced within 180 days from date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work has commenced for a period of 180 days. Before such work can be recommenced, a new permit shall first be obtained to do so "

4. Permit renewal - UBC Section 303(d) continues ". . . and the fee therefore shall be one-half the amount required for a new permit for such work providing no changes have been made in the original plans or specifications for such work. . . "

4. Inspections - UBC Section 305 describes general inspection criteria and outlines required inspections for typical construction development, and provides that "The

building official, upon notification from the permit holder, or his agent shall make the inspection."

Your Building Permit NO. 1-45-004725, issued April 13, 1986 for a new single family residences shows a single successful partial slab inspection on February 25, 1986. While you may have continued work following the February inspection, no additional requests were received from you, the permittee, or scheduled by this office. With no inspection activity within a 180 day period Building Permit NO. 1-45-004725 expired by limitation (see UBC Section 303(d)).

To continue work a new permit is required (see UBC Section 303(d)). With payment of a fee equal to one-half of the amount required for a new permit, and providing the scope of work from the original permit has not changed a new permit will be issued. Should you fail to renew Building Permit No. 1-45-004725 by February 25, 1987 a full permit fee will be charged.

No further work is authorized until a valid building permit is in force (see UBC Section 301(a)).

Regarding special conditions reference in your September 12, 1986 letter, minutes of the Clark County Planning Commission of April 22, 1986, on the matter of VC-42-85, referenced testimony requesting information from you on future construction progress and made specific reference to inspection intervals. In the motion for denial of an extension of time for VC-42-85, lack of progress was recognized as not meeting Zoning time requirements for completing the building within the framework of time. As you refer to the minutes of the meeting of March 7, 1985 in which you appeared before the Planning Commission, VC-42-85 was approved conditioned on "one (1) year to complete" the residence. You obviously did not comply with that special condition.

It should be apparent that Clark County is not intent on delaying your project or causing you needless expense or hardship. Building Permit No. 1-45-004725 was issued as a single family residence - - not as a foundation only as you claim. You called for and received a foundation inspection which was partially approved; work was not totally

complete to approved plans. The notation "No finals without Health Department approval of septic system" means simply that: the building could not receive final inspections until waste disposal requirements are completed to the satisfaction of the Health District. Health approved the septic system on August 21, 1986; the note will be deleted with building permit renewal. Incidentally, a foundation inspection is the first of a series of five inspection categories that ordinarily occur in sequence as the structure is progressively completed (see UBC Section 305 1.)

Construction, inspection scheduling and project control became your responsibility when you applied for and received an owner-builder permit (see Clark County Administrative Guidelines, Section 302(d)). To receive inspections you, as the permit holder, are responsible to notify this office. Information to that effect appears on the Building Permit Application form, and the Inspection Record (card) both of which are located at the job site. The County has no authority to notify permittees of impending permit expiration.

In response to your statements alleging selective enforcement, and violation of your rights, we find no evidence that could substantiate either suggestion or conclude that you have been subjected to any code, rule, regulation or hearing not expected of others.

In summary, Clark County's enforcement action is simply to enforce the Clark County Code; in your case, to have active building permits if you plan to continue construction for a future residence and that construction is performed to approved plans. Such routine follow-up is not intended to strike fear in the hearts of citizens.

Alleged criminal activity suggested in your letter of September 12, 1986 should be addressed to the proper authorities having jurisdiction in those areas.

Any further questions regarding building permits may be addressed to the undersigned.

Carl Whittington, PAC Administrator

cc. Robert D. Weber, director
Code Enforcement/Public Response Office
Residential Inspection Division, Building Department

**CLARK COUNTY BUILDING PERMIT
APPLICATION CENTER**

September 13, 1982

* ***

Mr. Larry Engel
10391 Joan Drive
Garden Grove, CA 92640

**REFERENCE: Request for building
requirements**

Clark County has adopted the 1982 Uniform Building Code (UCB) with related ordinances which is consistent with most Western States. You will probably find the building requirements for Clark County (and metro- politan Las Vegas) would be the same as Garden Grove. Aligned with the UBC are the 1981 Electrical Code, 1982 Uniform Plumbing Code and 1982 Uniform Mechanical Code and their related implemented ordinances. You should be able to review the codes at your local public library; purchase most likely can be made through your local building department.

Structure less than 120sq.ft. do not require building permits; therefore, the storage shed is exempt. Residential construction, building permits, inspection and general infor-

mation is contained in the codes, as stated above. Residential Estates (R-E) is described in our Zoning ordinance as having a maximum lot area of 20,000 sq. ft.

Mobile homes are also governed by State law through the State Manufactured Housing Division in Carson City. Through cooperative agreement, Clark County conducts set up inspections zoned for that use: that is, mobile home estates (owned), mobile home parks (rentals), or parcels over two acres zoned R-U. Owner/builders are allowed to occupy a mobile home in conjunction with building a permanent single family residence for a period of one year plus a possible one-time six-month extension.

Attached are courtesy guidelines covering areas in which you expressed interest. Should you decide to relocate in the Las Vegas area, we would be pleased to assist you more directly in processing your applications for building permits.

Carl W. Whittington, Business Manager

**CLARK COUNTY
DEPARTMENT OF COMPREHENSIVE PLANNING
ZONING DIVISION**

February 4, 1986
L. Engel
3388 W. Cougar
Las Vegas 89118

Application Number VC-42-85

This is to remind you that the above referenced application will expire on 3/7/86, if construction has not commenced by that date. You may request an Extension of Time by completing and submitting the attached application in triplicate prior to the scheduled expiration date. It is to you advantage, however, to apply as soon as possible since no permits may be issued after the expiration date while the Extension of Time application, please note:

- (1.) If the property has been sold. . .
- (2.) If the property has been subdivided ...

If you have already commenced construction on this project, please advise us by letter; do not submit the enclosed Extension of Time application in that case. You have commence construction if you have some portion of a building or wall finished.

It has not been the policy of Clark County to extend Zone Changes beyond a total of 5 years for projects which have not commenced. If that is your situation, we suggest that you not apply for more time on the original application. Instead, you should apply for new zoning whenever you are ready to proceed. **mobile home while building

At the time Engel received this notice he had walls built eight feet high.

Engel, Lawrence

VC-42-85

PUBLIC HEARING

A variance to maintain a mobile home as a temporary residence beyond the 18 month time limit during construction of a residence. On the E1/2 SW1/4 NW1/4 SW1/4 of Section 17, Township 22 South, Range 61 East in an R-E (Rural Estates Residential) zone.

GENERALLY LOCATED: At 3388 West Cougar Av

AREA INVOLVED: 1.15 acres

CONDITIONS:

1. A time limit of one year in which to commence construction or use.
2. Steet dedi. . .
3. Flood and drainage study and full compliance therewith, including dedication of flood control easements and the design and construction of improvemeents as required by the Department of Public Works. Signing . . .
4. All new constructions requires: 1. building permits in accordance with the Uniform Building Code as adopted by Clark County; and (2) submission of a plot and grading plan showing property lines, building locations, topography, and other such data as is required by the Building Department. Mobile homes require inspection for the Nevada Safety Seal prior to occupancy.

MASTER PLAN: .5-2 u/a.

PROTESTS:

APPROVALS:

OWNER & APPLICANT: Lawrence Engel 3388 W. Cougar

**CLARK COUNTY DEPARTMENT OF BUILDING
ROBERT D. WEBER, DIRECTOR**

February 24, 1987

Lawrence L. Engel
3330 West Cougar Avenue
Las Vegas, NV 89118

COMPLAINT - 3330 WEST COUGAR AVENUE

Your request for inspection of a concrete slab at the subject address cannot be performed since no building permit is in force authorizing the work. As you are aware, building permit number 1-45-004725 expired by limitation on August 25, 1986. To obtain an inspection, that permit will have to be renewed prior to February 25, 1987 or a new permit obtained after that date.

Additionally, you are advised that plumbing permit number 3-56-002489 expired by limitation on January 15, 1987 and will also need to be renewed prior to any further work being performed or inspections made.

As previously mentioned, the Clark County Building Department is not intent on delaying your project or causing you needless expense or hardship. You simply must

have valid permits in order to continue construction and obtain inspections on your proposed single family residence.

Incidentally, action by the Board of County Commissioners on May 21, 1986 addressed the presence of a temporary mobile home and had no bearing on your permits, which were both active at that time. Your request for an extension of time for continued use of the trailer was denied at that time.

Questions regarding building permits and inspections may be addressed to Carl Whittington, 455-3005, or myself at 455-3030.

ROBERT D. WEBER, DIRECTOR

RDW:CW:dg

cc: Paul Christensen, Commission Chairman, Thalia Dondero, Com. vice cha., Jay Bingham, Com., Manuel Cortez, Com., Karen Hayes, Com., William Pearson, Com., Bruce Woodbury, Com., Michael Cool, Assistant County Manager Code Compliance/Public Response Office Carl Whittington, PAC

Department of Building
Robert D. Weber, Director
Public Services Building
400 Las Vegas Blvd. South
Las Vegas, NV 89118

Feb. 6, 1987

Dear Mr. Weber;

On May 21, 1986 the Clark County Commission passed a bill of Attainder and on August 28, 1986 your Clark County Department unlawfully (unconstitutionally) declared Building Permit No. 1-45-004725 null and void.

This unlawful action has caused us severe injury, damage and delay.

As the action was unlawful and benefitted no one I now demand as my right under the law a construction inspection for a concrete inspection for a concrete slab in accordance with plans approved with Building Permit No. 1-45-004725 at 3330 West Cougar Avenue, Las Vegas, NV.

This inspection and recognition of this permit continuing as valid could reduce future injury, damage and delay for us, however providing this inspection does not dispensate Clark County Nevada from compensatory and punitive damages for unlawful acts past and future.

Please have the County Inspector notify us 48 hours before he comes to the property so we can insure that the concrete form work has not been damaged by bad weather or virulence.

Lawrence Lee Engel
3330 West Cougar Avenue
Las Vegas, NV 89118 702 361-7018

Copies to: Jay Bingham, Paul Christensen, Manuel J. Cortez, Thalia M. Dondero, Karen Hayes, William Pearson, Bruce Woodbury, Members of the Clark County Commission.

**CLARK COUNTY BUILDING DEPARTMENT
RESIDENTIAL INSPECTION RECORD**

Job site: 3330 W. Cougar Avenue Class of Work: New
USE: Foundation Const. type 6 OCC: N

Owner: Larry Engel Gen Contractor: Owner

Scope of Work: **FOUNDATION ONLY FOR NEW RES
PENDING HEALTH DEPT. APPROVAL OF SEPTIC
SYSTEM.**

Building Permit #1: 23-005523
Plumbing Permit #3: 56-002489

Location/Footing (steel) 4/10/84 9110

Masonry (steel) 3/4/85 9103
4 foot lift 7/4/85 9103
8 foot lift 9/12/85 9109

Note: items crossed by C.C. inspector 9109 stating county
should not have issued foundation only permit.
This permit was mysteriously declared void and Engel required to
reapply and pay a new fee. No reason was given, officially.



CLARK COUNTY BUILDING DEPARTMENT

COMMERCIAL INSPECTION RECORD

APPROVED PLANS
MUST BE AVAILABLE
FOR INSPECTOR USE
DURING INSPECTIONJOB SITE 3330 W. Conner Avenue CLASS OF WORK New USE Foundation CONST. TYPE A OCC NOWNER Larry Engel GEN. CONTRACTOR OWNERSCOPE OF WORK Foundation only for new res ponding health dept. approval of septic systemBuilding Permit #1 23-005123 Electrical Permit #2 Plumbing Permit #3 23-005429 Mechanical Permit #4

NOTICE: Post this card on the front of the structure in a weather protected location. YOU are responsible to request inspection when work is ready by calling 386-4383 before 4:00 p.m. for inspection on the next day. Before a framing inspection can be made, rough electrical, plumbing and mechanical must be in place and approved. If this card is lost or defaced, you must obtain a duplicate from the office before inspections will be made. Per UBC, you must begin work before 180 days, and get an approved structural inspection within 180 days after issue and at least every 180 days thereafter. Be sure you are ready before calling for inspection since a penalty fee may be charged for reinspection.

Inspections	Date	Inspector	Remarks
Location/Footing (stamp)	<u>4/10/84</u>	<u>9/M</u>	
Ground Electric			
Ground Plumbing			

DO NOT POUR CONCRETE UNTIL ABOVE INSPECTED

Concrete Slab	
Bond Beams	
Electric Slab	
Gas Piping Rough	

Electric Rough	
Plumbing Rough	
Ductwork Rough	
Top Out	
Roof/Sheathing	
Subfloor Nailing	
Framing	
Ext. Lath/Siding	

Insulation (wall)	
Insulation (attic)	

Sheetrock (interior)	
Stucco Brown Coat	

Final Building	
Final Electric	
Final Gas Tag	
Final Mechanical	

Other Inspections	Date	Inspector	Remarks
Temp. Pole/Power			
Gas Test (plumbing)			
Gas Test (mechanical)			
Fireplace			
Masonry (stamp)	<u>3-4-85 4/10/84</u>		
4' Lift	<u>7-2-85 4/10/84</u>		
8' Lift	<u>9-15-85 4/10/84</u>		
Grout/Bond Beams			
4' Lift			
8' Lift			
12' Lift			
Top Out			
Sewer			
Fire Pump Test			
Emerg. Gen. (rough)			
(load test)			
Alarm System (rough)			
(pull test)			
Sprinkler System			
Underground Hydromatic			
Underground Flush			
Overhead Hydromatic			
Standpipe Hydromatic			
Final			
Smoke Detector			
Final Onsite/Grading			
Final Fire Dept.			
Final Zoning			

PAC No.

**CLARK COUNTY BUILDING DEPARTMENT
RESIDENTIAL INSPECTION RECORD**

Job Site: 3330 W. Cougar Ave
Owner/Contractor Lawrence L. Engel, Owner
Date issued 4-3-85

Scope of Work: NEW RESIDENCE
Building Permit #1 45-004725
Plbg. Permit #3 56-002489

Location/Footing (steel) 2/25/86 9104
Ground Plumbing Partial 6/30/86 9205=???
Concrete Slab 2/25/86 9104
Masonry 4' lift 3/4/85 9103
8' lift 9/12/85 9109

BUILDING PERMIT RECORD
computer printout

\ Building Address: 03330 W. Cougar Permit NO. 1-
45-004725

Owner name: Engel, Lawrence Contr. Owner-Builder

Class of Work NEW Use of structure: SINGLE FAMILY
RESIDENCE

No. of unit. 1 square footage: 4,642
valuation: 112,701

Issuance date: 4/03/85 Building permit fee 465.50

Parcel No: 370-270-017 San/Health No. 0000 zone R-E

Status: ACTIVE Last update 2/26/86

Co issued: Red Tag: Water Tag: NO
San Tag: NO Inspect area 1

Comment 1: RES 85R0117 VC42-85 (NO FINAL W/O
HEALTH DEPT APPRVL OF SEPTIC SYS) LS

***INSPECTION INFOR ***

Date: 02/25/86 Type: Bldg-Slab Result: acceptable

Comment: Partial

Status: RESULT Inspector BELANGER,E time 09:45
Cause: Permit BSII 1-45-004725

*** INSPECTION INFOR ***

Date: 06/30/86 Type: PLBG-GROUND
Result: ACCEPTABLE
Status: RESULT Inspector: BYBEE, D Time: 09:45
Cause: Permitt BSII 3-56-002489

Area 18 No. 1-45-004725/001
Address 03330 W Cougar Ave
Contractor: Owner /Buider
Owner Name: Engel, Lawrence
Req Date: 09/11/85 Use: SINGLE FAMILY RESIDENCE
Type of Inspection: Bldg-Grout & Reinforced Masory

Comment: RES 85R0117 VC42-85 (NO FINAL W/O HEALTH
DEPT. APPRVL OF SEPTIC SYS) LS

*** INSPECTION RESULTS ***

ACCEPTABLE

COMMENT 8 feet 0 inches BOND

Inspector 9109 09/12/85 Time: 0830

**REPORT AND NOTICE OF INSPECTION
CLARK COUNTY HEALTH DISTRICT**

Control NO. S871W-00-00

Dist: 15 3330 W. Cougar Las Vegas 89118

09 Engel, Lawrence L 361-7018

category 080 081 S871W-JHQ-00 Action: 5A

08/21/86

DATE OF APPROVAL: 8/21/86

Sanitarian J.P illegible TIF 31

CLARK COUNTY BUILDING DEPARTMENT RESIDENTIAL INSPECTION RECORD

**APPROVED PLANS
MUST BE AVAILABLE
FOR INSPECTOR USE
DURING INSPECTION**

JOBSITE 3330 W. COUGAR AVE. SUB UNIT LOT BLOCK

OWNER/CONTRACTOR LAWRENCE L. ENGEL, OWNER DATE ISSUED 4-3-85

SCOPE OF WORK NEW RESIDENCE

Reg. Permit #1 - 45-004725 Cont's OWNER Month Permit #4 - _____ Cont's _____

Elec. Permit 92 - _____ Cont'd _____ Date _____ 9 - _____ Cont'd _____

Prog. Permit 03-56 002481 Cont'r _____ Other _____ Case'r _____

NOTICE: Post this card on the front of the structure in a weather protected location. YOU are responsible to request inspection when work is ready by calling 388-4383 between 4:00 p.m. for inspection on the next day. Before a framing inspection can be made, rough electrical, plumbing and mechanical must be in place and approved. If this card is lost or defaced, you must obtain a duplicate from the office before inspections will be made. For USC, you must begin work before 180 days, and get an approved structural inspection within 180 days after issue and at least every 180 days thereafter. Be sure you are ready before calling for inspection since a penalty fee may be charged for noninspection.

Required Inspections	Date	Inspector	Remarks
Location/Footing (size)	2-25-86	J.P.R.	
Ground Electric			
Ground Plumbing	Paving 6/4/86	J.P.R.	
DO NOT POUR CONCRETE UNTIL ABOVE ARE SIGNED			
Concrete Slab	2-25-86	J.P.R.	
Masonry (Reinforce & Grout)			
Rough Electric			
Rough Plumbing			
Rough Ductwork			
Roof Sheathing			
Subfloor Nailing			
Framing			
Ext. Lath or Siding			
Insulation (wall)			
Insulation (attic)			
Sheetrock (interior)			
Stucco Brown Coat			
Final Heat/Vent./AC			
Final Plumbing			
Gas Tag			
Final Building			
Final Electric			
Electric Tag			

Related Inspections	Date	Inspector	Remarks
Well Power			
Temporary Pole			
Sewer			
Gas Test (Mechanical)			
Gas Test (Plumbing)			
Pregrout/Reinforce			
Masonry 4' Lift	3-4-85	J.P.R.	4103
8' Lift	9-12-85	J.P.R.	9109
Grout/Bond Beams			
4' Lift			
8' Lift			
12' Lift			
Top Out			
Hearthstone			
Fireplace			
Tile Roof			
Underpinning			
Other (specify)			

PAC No.

17C

Chapter 3.36

COUNTY COMMISSION ELECTION DISTRICT*

Sections:

3.36.010 Created—Purpose.

*Prior ordinance history: Ord. 565.

3.36.010 Created — Purpose. (a) Pursuant to Nevada Revised Statutes 244.018, the board of county commissioners establishes seven county commission election districts.

(b) The policy for redistricting the county is declared to be:

(1) To provide that the several commission districts shall represent substantially equal numbers of people as practicable, in compliance with the constitutions of the U.S. and the state of Nevada;

(2) To preserve the unity of each district where practicable so that each is composed entirely of contiguous territory and is as compact as possible;

(3) To avoid, where practicable, any division which would tend to submerge an area in a larger district wherein substantially different socioeconomic interests predominate.

(c) The board of county commissioners finds that:

(1) The redistricting shall be based upon the population count established by the last national census of the Bureau of Census of the United States Department of Commerce.

(2) Each county commissioner shall be a resident of and be elected by the registered voters of the county commissioner election district as provided in this chapter.

(3) The number of county commissioners elected at each general election pursuant to this chapter shall be as nearly equal as possible.

(d) Clark County is divided into the following county commission election districts designated as Districts A through G. Districts A, B, C and D shall consist of commission seats with terms expiring on the day before the 1st Monday of January, 1985, and thereafter four-year terms. Districts E, F and G consist of commission seats with four-year terms initially and thereafter.

(e) Maps identifying the boundaries of the various districts are attached to the ordinance codified in this chapter as Exhibits "A" and "B," which by this reference are made a part of this chapter. District A is all of the territory of Clark County lying outside of the brown line; District B is all that area outlined in red; District C is all that area outlined in lavender; District D is all that area outlined in orange; District E is all that area outlined in yellow; District F is all that area outlined in blue; and District G is all that area outlined in green. (Ord. 766 § 1, 1981; Ord. 577 § 1, 1978)

Clark County 300E

Chapter 3.12

COUNTY PLANNING COMMISSION*

Sections:

- 3.12.010 Established—Membership.
- 3.12.020 Term of office.
- 3.12.030 Compensation and expenses.
- 3.12.040 Meetings.
- 3.12.050 Adopting regulations.
- 3.12.060 Chairman.
- 3.12.070 Employees and consultants.
- 3.12.080 Expenditures.
- 3.12.090 Reports and recommendations.

*For statutory authority relating to planning commissions see NRS, Chapter 278.

3.12.010 Established — Membership. There is created the Clark County planning commission pursuant to NRS 278.030, to consist of seven members, who shall be appointed by the chairman of the board of county commissioners, with the approval of said board. At least four of the seven members shall be residents of the unincorporated areas of the county. (Ord. 568 § 1, 1978: Ord. 201 § 2, 1964)

3.12.020 Term of office. The term of office of each member of the Clark County planning board shall be four years or until his successor takes office. Members appointed prior to January 27, 1978, may serve the balance of the term for which they were appointed. All appointments to fill vacancies shall be for the unexpired term and made by the board of county commissioners as provided in staggered terms conforming with NRS 278.040. The appointed members of such planning commission shall hold no other public office. Members of the Clark County planning commission may be removed, after public hearing, by a majority vote of the board of county commissioners for inefficiency, neglect of duty or malfeasance of office. (Ord. 568 § 2, 1978: Ord. 201 § 3, 1964)

3.12.030 Compensation and expenses. Members of the planning commission shall be entitled to compensation as provided by NRS 278.040, in the amount of not more than forty dollars per meeting and not more than two hundred dollars per month. Additionally, members of the planning commission shall be entitled to normal travel expenses for approved travel on county business outside the limits of Clark County. (Ord. 1012 § 1, 1987: Ord. 201 § 4, 1964)

3.12.040 Meetings. The planning commission established in this chapter shall hold at least one regular meeting in each month, and may hold such other meetings, either regular or special, as circumstances may require or render desirable for the performance of its function and the proper discharge of its duties and responsibilities. A quorum of the commission is required to transact its business. A quorum is a majority of the members of the commission, that is four, unless a member declares he will abstain because of a conflict of interest, bias or improper pressure. Then the necessary quorum to act upon the matters and the numbers of votes necessary to act is reduced as though the members abstaining were not

members of the commission. A member shall declare his intention to abstain prior to or concurrently with the performance of his duty to the chairman and other members of the commission. (Ord. 568 § 3, 1978; Ord. 201 § 5, 1964)

3.12.050 Adopting regulations. The Clark County planning commission shall, and is authorized to, adopt rules for the transaction of business, not inconsistent with applicable state laws or Clark County ordinances, and shall keep a record of its resolutions, transactions, findings, and determinations, which record shall be a public record. (Ord. 201 § 6, 1964)

3.12.060 Chairman. The Clark County planning commission shall elect its chairman from among the appointed members, and the term of such elected chairman shall be one year, with eligibility for reelection to successive terms. (Ord. 201 § 7, 1964)

3.12.070 Employees and consultants. The Clark County planning commission, in addition to electing its chairman, shall create and fill such other of its offices as it may determine, and may recommend to the board of county commissioners the appointment of such employees as may be deemed necessary for proper discharge of planning commission work, or the engagement of contractual services of planners, architects, engineers, and other specialized consultants, to the same end. (Ord. 201 § 8, 1964)

3.12.080 Expenditures. Any expenditures connected with the functions of the planning commission, exclusive of gifts, shall be within the amounts appropriated for that purpose by the board of county commissioners, which shall provide the funds, equipment and accommodations necessary for the planning commission's work. (Ord. 201 § 9, 1964)

3.12.090 Reports and recommendations. The Clark County planning commission, through the director of the county planning department, shall make report of its findings, determinations or recommendations to the board of county commissioners on all applications or matters considered by said planning commission, for final action or disposition by said board of county commissioners, as may be authorized under applicable law or ordinance. (Ord. 201 § 10, 1964)



22.02.130 Combined board of building appeals. (A) Purpose. In order to determine the suitability of alternate materials and methods of construction and to provide for reasonable interpretations of the technical codes for which there is no administrative review provided by law, there shall be created a combined board of building appeals. The combined board of building appeals shall hear appeals relating to:

- The building administrative code of Clark County;
- The building code of Clark County;
- The mechanical code of Clark County;
- The housing code of Clark County;
- The abatement of dangerous buildings code of Clark County;
- The swimming pool code of Clark County; and
- The solar code of Clark County.

Where a specific appeal involves combinations of issues relating both to the scope of the combined board of building appeals as well as either the board of plumbing examiners or the board of electrical examiners, then two members from the board(s) affected will be designated by the chairman thereof to sit as voting members of the combined board of building appeals only for the portions of its deliberations relating to the issues within their own board's scope. At his option, the chairman of the affected board may choose to hold a properly noticed special meeting by telephonic means to choose such temporary assignments.

(B) Members. The board shall consist of five members appointed by the board of county commissioners as follows:

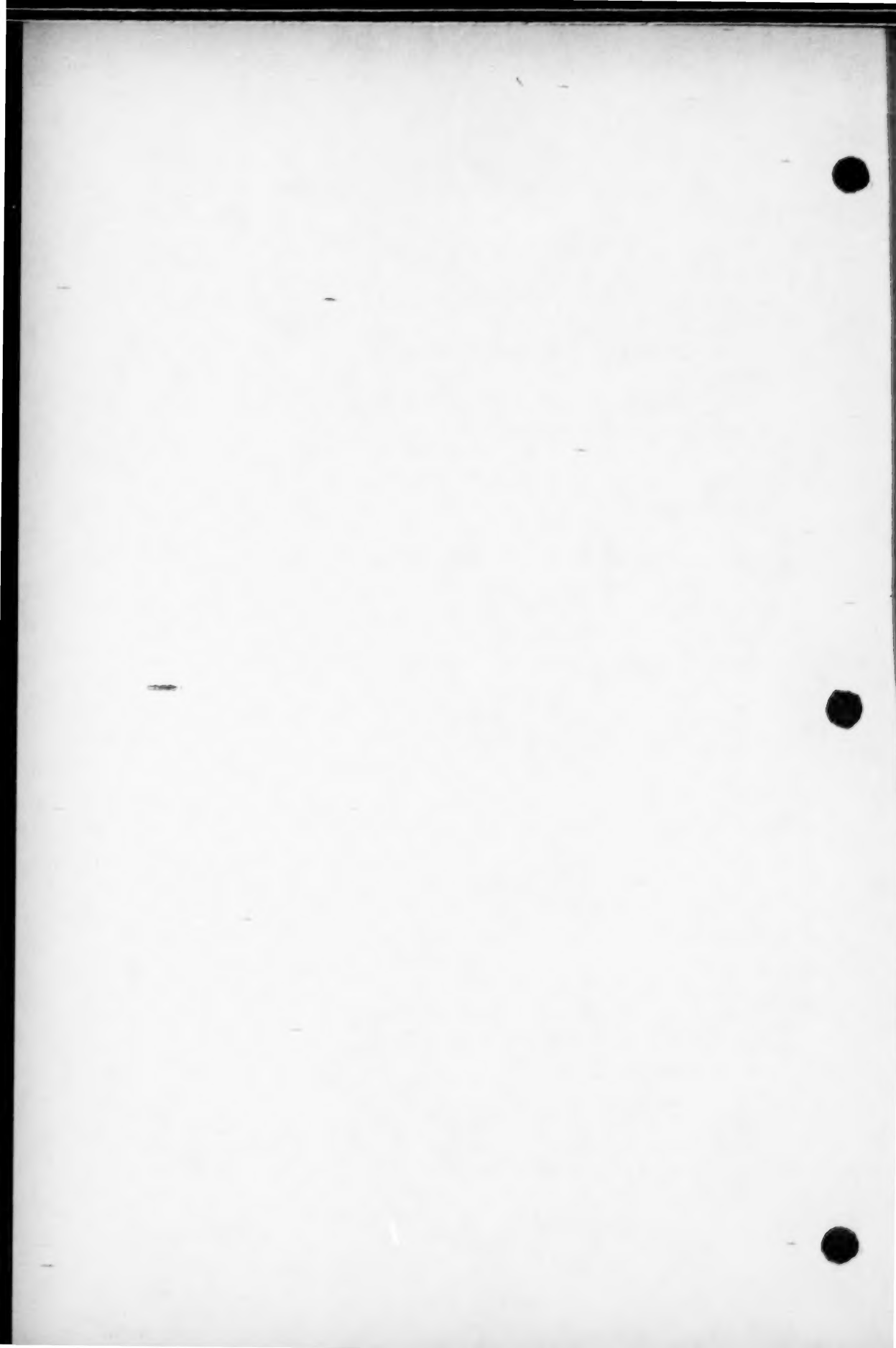
- (1) One architect registered in and for the state of Nevada;
- (2) One general contractor licensed by the state of Nevada and holding a business license in Clark County;
- (3) One engineer registered in and for the state of Nevada;
- (4) One representative of the residential construction industry;
- (5) One layman; and
- (6) The building official to act as secretary and member ex officio; provided, that he shall have no vote.

(C) Procedures. The combined board of building appeals shall adopt reasonable rules and procedures for conducting its investigations and shall render all decisions and findings in writing to the building official with a duplicate copy to the appellant.

(D) Limitations and Scope of Authority. The combined board of building appeals shall provide final interpretations on the provisions of the codes referenced above, hear administrative appeals from persons entitled to hearings under the codes referenced above, and determine the suitability of alternate building materials and methods of construction. The board has no authority to grant waivers or variances to specific code requirements.

(E) Liability. Neither the combined board of building appeals or any member thereof shall be liable for, and the board and each member thereof is relieved from all personal liability for any damage that may accrue to persons or property as a result of any good faith act or by reason of any good faith act or omission in the discharge of any duty specified herein. Any suit brought against the board or any member thereof as a member of the board resulting from such act or omission performed by them as members of the board in the performance of their duties shall be considered an act of Clark County and shall be subject to its liability insurance coverage.

The appellant shall cause to be made at his own expense any tests or research necessary to support his claims before the combined board of building appeals. (Ord. 955 § 1 (part), 1985)



22.02.140 Violations. It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building, structure or building service equipment or cause or permit the same to be done in violation of this code and/or the technical codes.

Any person, firm or corporation violating any of the provisions of this code shall be deemed guilty of a misdemeanor, and each such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this code is committed, continued, or permitted, and upon conviction of any such violation, such person shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment. Whenever in this chapter any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, the doing of any such required act shall constitute a violation of this chapter. Any day of any violation of this chapter shall constitute a separate offense. (Ord. 955 § 1 (part), 1985)

Chapter 22.01

ENFORCEMENT

Sections:

20.01.010 Authority to issue citations.

22.01.010 Authority to issue citations. Building, electrical, mechanical, plumbing and zoning inspectors and the immediate superior officer of said inspectors of the department of building are authorized to prepare, sign and serve misdemeanor citations, pursuant to NRS Chapter 171, to enforce the provisions of Titles 22, 23, 24, 25, 27, 28 and 29 of this Code, and shall diligently prosecute the violation thereof. (Ord. 846 § 7, 1983; Ord. 644 § 1, 1979)

22.02.147 Permits issuance — Sec. 303. (A) Issuance. The application, plans and specifications, and other data, filed by an applicant for permit shall be reviewed by the building official. Such plans may be reviewed by other departments of Clark County to verify compliance with any applicable laws under their jurisdiction. If the building official finds that the work described in an application for a permit and the plans, specifications and other data filed with it conform to the requirements of this code and the technical codes and other pertinent laws and ordinances, and that the fees specified elsewhere in this code have been paid, he shall issue a permit for the work described.

When the building official issues the permit where plans are required, he shall endorse in writing or stamp the plans and specifications "approved." Such approved plans and specifications shall not be changed, modified or altered without authorization from the building official, and all work shall be done in accordance with the approved plans.

The building official may issue a permit for the construction of part of a building, structure or building service equipment before the entire plans and specifications for the whole building, structure or building service equipment have been submitted or approved, provided adequate information and detailed statements have been filed complying with all pertinent requirements of the technical codes. The holder of such permit shall proceed at his own risk without assurance that the permit for the entire building, structure or building service equipment will be granted.

At his option, when he is assured that inspections will proceed simultaneously, the building official may issue a single permit incorporating several scopes of work governed by one or more of the various technical codes; for example, a single permit may be issued for a pool with attached spa which includes the building, electrical and plumbing scopes of work.